

AGENDA



BERKELEY CITY COUNCIL MEETING

Tuesday, March 26, 2019

6:00 PM

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – CHERYL DAVILA
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

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

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

1. Recognition of the Suitcase Clinic
2. Recognition of March for Meals Month

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Persons will be selected by lottery to address matters not on the Council agenda. If five or fewer persons submit speaker cards for the lottery, each person selected will be allotted two minutes each. If more than five persons submit speaker cards for the lottery, up to ten persons will be selected to address matters not on the Council agenda and each person selected will be allotted one minute each. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a speaker card to the City Clerk in person at the meeting location and prior to commencement of that meeting. The remainder*

of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Speaker cards are not required for this second round of public comment on non-agenda matters.

Consent Calendar

The Council will first determine whether to move items on the agenda for “Action” or “Information” to the “Consent Calendar”, or move “Consent Calendar” items to “Action.” Items that remain on the “Consent Calendar” are voted on in one motion as a group. “Information” items are not discussed or acted upon at the Council meeting unless they are moved to “Action” or “Consent”.

No additional items can be moved onto the Consent Calendar once public comment has commenced. At any time during, or immediately after, public comment on Information and Consent items, any Councilmember may move any Information or Consent item to “Action.” Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Speakers will be entitled to two minutes each to speak in opposition to or support of Consent Calendar and Information Items. A speaker may only speak once during the period for public comment on Consent Calendar and Information items.*

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

- Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**
From: City Manager
Recommendation: Adopt the second reading of Ordinance No. 7,644-N.S., the Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.
First Reading Vote: All Ayes
Financial Implications: None
Contact: Timothy Burroughs, Planning and Development, 981-7400

Consent Calendar

2. Minutes for Approval

From: City Manager

Recommendation: Approve the minutes for the Council meetings of February 5, 2019 (special), February 19, 2019 (regular), February 26, 2019 (regular), and February 28, 2019 (special).

Financial Implications: None

Contact: Mark Numainville, City Clerk, 981-6900

3. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 26, 2019

From: City Manager

Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

Financial Implications: \$325,000

Contact: Henry Oyekanmi, Finance, 981-7300

4. Contract No.10438B Amendment: Ashby Village for Age-Friendly Berkeley Plan Production

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10438B with Ashby Village to design and print a finalized City of Berkeley Age-Friendly Plan, in an amount not to exceed \$7,000 for a total contract amount not to exceed \$57,000. Contract term will remain unchanged, and will expire on August 31, 2019.

Financial Implications: See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

5. Grant Application: the Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager or her designee to (1) Apply for a grant in the amount of \$130,000 from the California Division of Boating & Waterways ("DBW") Surrendered and Abandoned Vessel Exchange (SAVE) grant program for the removal and disposal of approximately 26 abandoned vessels located at the Berkeley Marina; (2) Execute any amendments; and (3) Authorize a local match contribution of \$13,000.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700

Consent Calendar

- 6. Contracts: Fehr & Peers and Parisi Associates for On-Call Traffic Engineering Services**
From: City Manager
Recommendation: Adopt Resolutions authorizing the City Manager to execute two contracts and any amendments with Fehr & Peers and Parisi Associates for on-call traffic engineering services in an amount not to exceed \$1,000,000 each for a combined total not to exceed amount of \$2,000,000 from April 11, 2019 to June 31, 2022 with two 1-year options to extend.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
- 7. Adopt a Resolution of Intent to Consider a FlixBus Franchise Agreement for Long-Distance Bus Service**
From: City Manager
Recommendation: Pursuant to Berkeley Municipal Code Chapter 9.60, adopt a Resolution declaring the Council's intention to consider at a public hearing, set for April 30, 2019, at 6:00 p.m., whether to grant a franchise to FlixBus, Inc. to provide long-distance bus service to the Berkeley public.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
- 8. Contract No. 8884C Amendment - St. Vincent de Paul for Mattress Recycling**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8884C with St. Vincent de Paul to accept mattresses collected from community members for refurbishing and recycling at the City's Solid Waste Management and Transfer Station. This amendment will increase the Contract \$50,000 for a new total contract amount not to exceed \$456,000 to fund services through contract expiration June 30, 2019.
Financial Implications: See report
Contact: Phillip Harrington, Public Works, 981-6300
- 9. Re-appointment of Paul Kealoha-Blake to the Mental Health Commission**
From: Mental Health Commission
Recommendation: Adopt a resolution for the re-appointment of Paul Kealoha-Blake to the Mental Health Commission, as a representative of the General Public Interest category, to complete his third term ending March 21, 2021.
Financial Implications: None
Contact: Karen Klatt, Commission Secretary, 981-5400

Consent Calendar

- 10. Transitioning cost of 4th of July Festival from the City's Marina Fund to the City's General Fund**
From: Parks and Waterfront Commission
Recommendation: Adopt a resolution referring to the City Manager to transition the cost of the annual 4th of July Festival from its current funding source, the City's Marina Enterprise Fund, to the City's General Fund.
Financial Implications: See report
Contact: Roger Miller, Commission Secretary, 981-6700
- 11. Police Review Commission's co-sponsorship of a NACOLE Regional Training and Networking Event**
From: City Manager and Police Review Commission
Recommendation: Authorize the Police Review Commission to co-sponsor, with the National Association for Civilian Oversight of Law Enforcement (NACOLE) and the BART Office of the Independent Police Auditor, a regional training and networking event on May 3, 2019 in Oakland, California.
Financial Implications: None
Contact: Paul Buddenhagen, City Manager's Office, 981-7000, Katherine Lee, Commission Secretary, 981-4950

Council Consent Items

- 12. Budget Referral: \$30,000 to UC Theater Concert Career Pathways Education Program From: Mayor Arreguin and Councilmember Davila**
Recommendation: Refer to the FY2020-2021 budget process the allocation of \$30,000 from excess unallocated General Fund revenues to the UC Theater Concert Career Pathways Education Program.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, 981-7100
- 13. Honoring Healthy Black Families, Inc.: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmembers Davila, Harrison, Wengraf, and Bartlett
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila, to Healthy Black Families in honor of their 5th Anniversary, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, 981-7120

Council Consent Items

- 14. LifeLong Medical Care: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Councilmembers Davila, Wengraf, and Bartlett
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila to LifeLong Medical Care for their many contributions to Berkeley with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.
Financial Implications: See report
Contact: Cheryl Davila, Councilmember, District 2, 981-7120
- 15. Dynamex Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance**
From: Councilmember Bartlett
Recommendation: That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903.
Financial Implications: See report
Contact: Ben Bartlett, Councilmember, District 3, 981-7130
- 16. Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds**
From: Councilmembers Wengraf, Bartlett, Hahn, and Mayor Arreguin
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember, including up to \$250 from Councilmember Wengraf, to support the City's Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf's discretionary Council Office Budget and any other Councilmembers who would like to contribute allows the City of Berkeley to invite and support the community to the City's 17th Annual Holocaust Remembrance Day program on Sunday, April 28th, 11:30 AM at the Magnes Collection of Jewish Art and Life.
Financial Implications: See report
Contact: Susan Wengraf, Councilmember, District 6, 981-7160

Council Consent Items

17. Support for SB-190 Fire Safety: Building Standards

From: Councilmembers Wengraf, Hahn, Droste, and Kesarwani

Recommendation: Send a letter in support of SB-190 Fire Safety: Building Standards (Dodd) to Senator Dodd and copy Senator Skinner, Representative Wicks and Governor Newsom.

The Legislation would require the Office of the State Fire Marshal to: (1) Develop a model defensible space program to be used by cities and counties to enforce defensible space provisions; (2) Develop Wildland-Urban Interface Fire Safety Building Standards Compliance Training Manual, and make available via website. To be used locally in training of building officials, builders and fire service personnel; (3) Develop guidance document for maintenance of defensible space around residential structures; (4) Develop and update regularly a Wildland-Urban handbook listing products and construction systems that comply with specified Wildland-Urban Interface Fire Safety building standards; (5) Use money from the Building Standards Administration Special Revolving Fund in the State Treasury to carry out the provisions.

Financial Implications: None

Contact: Susan Wengraf, Councilmember, District 6, 981-7160

18. The Suitcase Clinic: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

From: Councilmembers Robinson, Harrison, Hahn, and Davila

Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$250 from Councilmember Robinson, to The Suitcase Clinic to assist in the expansion of its free laundry program, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.

Financial Implications: See report

Contact: Rigel Robinson, Councilmember, District 7, 981-7170

Action Calendar

The public may comment on each item listed on the agenda for action as the item is taken up. For items moved to the Action Calendar from the Consent Calendar or Information Calendar, persons who spoke on the item during the Consent Calendar public comment period may speak again at the time the matter is taken up during the Action Calendar.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer 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. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action items may be reordered at the discretion of the Chair with the consent of Council.

Action Calendar – Public Hearings

Staff shall introduce the public hearing item and present their comments. This is followed by five-minute presentations each by the appellant and applicant. The Presiding Officer will request that persons wishing to speak, line up at the podium to be recognized and to determine the number of persons interested in speaking at that time.

Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer 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. The Presiding Officer may with the consent of persons representing both sides of an issue allocate a block of time to each side to present their issue.

Each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Councilmembers shall also submit a report of such contacts in writing prior to the commencement of the hearing. Written reports shall be available for public review in the office of the City Clerk.

19. **ZAB Appeal: 1722 Walnut St**

From: City Manager

Recommendation: Conduct a public hearing, and upon conclusion adopt a Resolution to affirm the Zoning Adjustments Board decision to deny Use Permit/Variance #ZP2018-0021 to legalize an unpermitted detached dwelling unit in the rear yard area of a lot legally developed with an eight-unit apartment building, and dismiss the appeal.

Financial Implications: None

Contact: Timothy Burroughs, Planning and Development, 981-7400

Action Calendar

20a. Providing direction on closing the funding gap to complete Measure T1 Phase 1 projects

From: City Manager

Recommendation:

1. Council to provide direction on a preferred option to close the funding gap in the current Measure T1 Phase 1 program. Four possible options are summarized below and discussed in further detail starting on page 4 under Current Situations and its Effects – Funding Gap.

Option A: Reduce up to \$5 million between 13 projects by reducing project scopes from Planning and Design to Conceptual, Construction to Planning and Design, Construction to Conceptual, or removing or delaying the project.

Option B: Reduce up to \$4 million by reducing the Live Oak Community Center project scope from Construction to Planning and Design.

Option C: Authorize up to \$3 million in additional funding for T1 Phase 1 and reduce \$2 million between 7 projects by reducing project scopes from Planning and Design to Conceptual or Construction to Planning and Design.

Option D: Authorize up to \$7 million in additional funding to complete all T1 Phase 1 projects.

2. Council adopt a resolution authorizing the chosen option to complete Measure T1 Phase 1 projects.

Financial Implications: See report

Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700, Phillip Harrington, Public Works, 981-6300

20b. Authorizing up to \$7 million in additional funding to complete Measure T1 Phase 1 projects

From: Public Works Commission

Recommendation: The T1 team is requesting the PWC and the Parks and Waterfront Commission take action at their February meetings on their preferred course of action. The T1 team wants to make their recommendation to Council this spring.

The T1 sub-committees recommend that the PWC vote to endorse the following: - We prefer Option D to meet the funding shortfall. The T1 staff has stated that it is possible to transfer funds from other City sources and to repay it with Phase 2 bond proceeds. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City; - We are concerned that a disproportionate share of improvements has been allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented; - We support identifying a green infrastructure project in Phase 1; - We support implementing the 7 street improvement projects in Phase 1.

Financial Implications: See report

Contact: Nisha Patel, Commission Secretary, 981-6300

Action Calendar

20c. Authorizing up to \$7 million in additional funding to complete Measure T1 Phase 1 projects

From: Parks and Waterfront Commission

Recommendation: The T1 team is requesting the PWC and the Parks and Waterfront Commission take action at their February meetings on their preferred course of action. The T1 team wants to make their recommendation to Council this spring.

The T1 sub-committees recommend that the PWC vote to endorse the following: - We prefer Option D to meet the funding shortfall. The T1 staff has stated that it is possible to transfer funds from other City sources and to repay it with Phase 2 bond proceeds. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City; - We are concerned that a disproportionate share of improvements has been allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented; - We support identifying a green infrastructure project in Phase 1; - We support implementing the 7 street improvement projects in Phase 1.

Financial Implications: See report

Contact: Roger Miller, Commission Secretary, 981-6700

20d. Recommendations for current T1 Phase 1 funding shortfalls

From: Energy Commission

Recommendation: The Berkeley Energy Commission recommends the City Council integrate greenhouse gas (GHG) reduction goals, as stated in the Climate Emergency Resolution adopted June 12, 2018, into the T1 funding priorities.

Financial Implications: See report

Contact: Billi Romain, Commission Secretary, 981-7400

20e. Contract: D.L. Falk Construction for North Berkeley Senior Center Seismic Upgrades and Renovations Project

From: City Manager

Recommendation: Adopt a Resolution:

1. Approving plans and specifications for the North Berkeley Senior Center Seismic Upgrades and Renovations Project, Specification No.19-11268-C; 2. Accepting the bid of D.L. Falk Construction as the lowest responsive and responsible bidder; and 3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$8,320,400, which includes a contingency of \$756,400.

Financial Implications: See report

Contact: Phillip Harrington, Public Works, 981-6300

Action Calendar

- 21. Referral Responses: Managing Recreational Vehicle (RV) Parking**
From: City Manager
Recommendation: Adopt second reading of Ordinance No. 7,643-N.S. (BMC Section 14.40.120) prohibiting parking campers and RVs during certain hours and creating additional resources for people living in RVs, and refer any additional costs to the FY20-21 Budget process.
First Reading Vote: Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison, Robinson
Financial Implications: See Report
Contact: Paul Buddenhagen, City Manager's Office, 981-7000
- 22. Missing Middle Report** (*Continued from February 26, 2019. Contains revised materials*)
From: Councilmembers Droste, Bartlett, Robinson, and Kesarwani
Recommendation: Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.
Report should include, but is not limited to: - Identifying where missing middle housing is optimal; - Allowing the possibility of existing houses/footprints/zoning envelopes to be divided into up to 4 units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase on site, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit; - Excluding very high fire severity zones as defined by Cal Fire and/or City of Berkeley; - Considering form-based zoning, which addresses the appropriate form, scale and massing of buildings as they relate to one another, as a potential strategy; - Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units; - Creating incentives for building more than one unit on larger than average lots; - Considering provision of tenant and vulnerable low-income homeowner protections, demolition controls, and no net loss provisions; - Considering provisions that align with our land value recapture policy objectives to maximize affordability in Berkeley.
Financial Implications: See report
Contact: Lori Droste, Councilmember, District 8, 981-7180
- 23. Referral to City Manager to Scope Process and Estimate Cost of New General Plan**
From: Mayor Arreguin, and Councilmembers Hahn and Wengraf
Recommendation: Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process.
Financial Implications: See report
Contact: Jesse Arreguin, Mayor, 981-7100

Action Calendar

24. **Referral Response: 1000 Person Plan to Address Homelessness** *(Continued from February 26, 2019)*
From: City Manager
Contact: Kelly Wallace, Housing and Community Services, 981-5400

Information Reports

25. **Homeless Commission Meeting Cancellations**
From: City Manager
Contact: Peter Radu, Commission Secretary, 981-5400
26. **Berkeley Economic Dashboards**
From: City Manager
Contact: Jordan Klein, Economic Development, 981-7530
27. **Zero Waste Division's Integration of the Non-Exclusive Waste Hauler Commercial Franchisees Commercial Customers Update**
From: City Manager
Contact: Phillip Harrington, Public Works, 981-6300

Public Comment – Items Not Listed on the Agenda

Adjournment

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.cityofberkeley.info/citycouncil>. Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Communications to the City Council are public record 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 the City Council, 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 City Clerk Department at 2180 Milvia Street. 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 City Clerk Department for further information.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of City Hall located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.cityofberkeley.info/citycouncil>

and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@cityofberkeley.info

Libraries:
Main - 2090 Kittredge Street
Claremont Branch – 2940 Benvenue
West Branch – 1125 University
North Branch – 1170 The Alameda
South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

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

Attendees at public meetings are reminded that other attendees may be sensitive to various scents, whether natural or manufactured, in products and materials. Please help the City respect these needs.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on March 14, 2019***

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

## **Communications**

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.*

### **Item #19: ZAB Appeal: 1722 Walnut Street**

1. John and Glen Stevick

### **Item #21: Referral Responses: Managing Recreational Vehicle (RV) Parking**

2. Barryett Enge
3. Margy Wilkinson

**Item #22: Missing Middle Report**

4. Gloria Polanski
5. Walter Wood
6. Margo Hackett
7. Amber Turley
8. Savlan Hauser
9. Nancy Rodriguez-Bell
10. Susan Schwartz
11. Joe Berry
12. Ray Yep
13. Claire Broome
14. Miranda Worthen
15. Pepper Sbarbaro
16. Jane Kitchel
17. Vivian Warkentin
18. Alex Stillwell
19. Katherine Buss
20. Bob
21. Jeremy Thorner
22. Mike Berkowitz
23. Tom and Marilyn Poundstone
24. Theo Posselt
25. Peggy Nendelson
26. Adair Gerke
27. Sara Fain
28. Steve Douglas

**Apothecarium**

29. Lyra Wilde
30. Beverly Morgan

**Infrastructure (General)**

31. Bob and Jeanie Minor
32. Avran Gur Arye (2)
33. Bryce Nesbitt

**Climate Change**

34. Donald Goldmacher (4)
35. Thomas Lord

**Encampments**

36. Richard James
37. Jessie McFarland

**Smoking**

38. Carol Denney

**North Berkeley BART**

- 39. Judy Massarano
- 40. Dmitriy Shirchenko
- 41. Mariko Nobori
- 42. Kathleen Tuttle
- 43. Laura Lipman and George Clark
- 44. Barbara Fisher
- 45. Andrew Livsey
- 46. Lois Cantor
- 47. Karen Sumner
- 48. Peter Ewell and Helga Recke
- 49. Shoana Humphries
- 50. Meredith and Ed Gold

**Plastic Food Container Ordinance**

- 51. Jocelyn Berkowitz

**Zero Waste Council Meetings**

- 52. Sophie Hahn
- 53. Cheryl Davila

**2-1-1 Monthly Report for January 2019**

- 54. Eden I&R

**East Bay Community Meetings**

- 55. East Bay Community Energy

**Neo-Nazi Plot**

- 56. Donald Goldmacher

**Trees on Public Property**

- 57. David Lerman

**West Campus Pool**

- 58. Kamala Asher

**Mr. Powell's Home**

- 59. Margy Wilkinson
- 60. Steve Martinot

**2190 Shattuck**

- 61. Sally Nelson

**Police Review Commission**

- 62. George Perezvelez, Chairperson, Police Review Commission

### **Sanctuary Contracting Ordinance**

63. Arthur Stopes III

### **Sonic Internet Permitting Process**

64. Bill Kristy

65. Tad Laird

66. Susan Strouse

### **Adeline Corridor**

67. Larisa Cummings

### **5G**

68. Connie Anderson

69. Carol Hermanson

### **Fed Takeover of California Water Policy**

70. Charlene Woodcock

### **End Daylight Savings Time**

71. Omowale Fowles

### **Pacific Steel Casting Company**

72. Janice Schroeder

### **DFSC Motion for Sirens**

73. Gradiva Couzin, Chair, Disaster and Fire Safety Commission

### **Supplemental Communications and Reports**

*Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline.*

- **Supplemental Communications and Reports 1**  
Available by 5:00 p.m. five days prior to the meeting.
- **Supplemental Communications and Reports 2**  
Available by 5:00 p.m. the day before the meeting.
- **Supplemental Communications and Reports 3**  
Available by 5:00 p.m. two days following the meeting.



ORDINANCE NO. 7,644-N.S.

RESCINDING SECTION 23C.12.050 OF THE BERKELEY MUNICIPAL CODE AND ADDING CHAPTER 23C.14 TO THE BERKELEY MUNICIPAL CODE; DENSITY BONUS

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

Section 1. That Section 23C.12.050 is hereby rescinded.

Section 2. That Chapter 23C.14 is hereby added to read as follows:

**Chapter 23C.14 Density Bonus**

|                   |                                                  |
|-------------------|--------------------------------------------------|
| <b>23C.14.010</b> | <b>Purpose</b>                                   |
| <b>23C.14.020</b> | <b>Definitions</b>                               |
| <b>23C.14.030</b> | <b>Application Requirements</b>                  |
| <b>23C.14.040</b> | <b>Density Bonus Calculations and Procedures</b> |
| <b>23C.14.050</b> | <b>Incentives and Concessions</b>                |
| <b>23C.14.060</b> | <b>Waivers and Reductions</b>                    |
| <b>23C.14.070</b> | <b>Qualifying Units</b>                          |
| <b>23C.14.080</b> | <b>Special Provisions</b>                        |
| <b>23C.14.090</b> | <b>Regulatory Agreements</b>                     |

**23C.14.010 Purpose**

The purpose of this Chapter is to establish procedures and local standards for the implementation of California Government Code Sections 65915 - 65918 consistent with local zoning regulations and development standards, and to provide special provisions consistent with the intent of State and local law. Unless otherwise noted, all section references in this Chapter are to the California Government Code.

**23C.14.020 Definitions**

Whenever the following terms are used in this Chapter, they have the meaning established by this Section. Other capitalized terms have the meaning set forth in Berkeley Municipal Code Chapter 23A.08 and/or Chapter 23F.04, or in California Government Code Sections 65915 - 65918, as applicable.

- A. "Administrative Regulations" means guidelines and procedures promulgated by the Planning Director that may be modified from time to time to effectively implement this ordinance.
- B. "Base Project" means the maximum allowable residential density on a housing development site pursuant to the applicable zoning district or, where no density

standard is provided, as set forth in the Administrative Regulations before applying the density bonus.

- C. "Density Bonus" means those residential units, floor area, rental beds or bedrooms added to the Base Project pursuant to the provisions of Section 65915 and this Chapter.
- D. "Eligible Housing Development" has the meaning set forth in Section 65917.2.
- E. "Housing Development" has the meaning set forth in Section 65915(i).
- F. "Incentive and Concession" means an incentive or a concession as the terms are used in Section 65915 and in particular as defined in Section 65915(k) thereof. The City may request reasonable documentation from the applicant to support the request.
- G. "Qualifying Unit" means a unit that is provided at a below market-rate rent or sales price as set forth in Section 65915 in order to receive a Density Bonus and/or Waivers and Reductions and/or Incentives and Concessions.
- H. "Waiver and Reduction" means a waiver or a reduction as the terms are used in Section 65915 and in particular in Section 65915(e) thereof, and means any and all changes to or exemptions from physical lot development standards that are required to avoid precluding the construction of a Housing Development with Density Bonus Units, as set forth in Section 65915(e). The City may request reasonable documentation from the applicant to support the request.

### **23C.14.030 Application Requirements**

In addition to any other information required by this Title, an application for a Density Bonus must include the following information:

- A. How the proposed project will satisfy the eligibility requirements of Section 65915 or 65917.2.
- B. For those districts without density standards, a density bonus schematic as set forth in the Administrative Regulations;
- C. The requested Density Bonus pursuant to Berkeley Municipal Code Section 23C.14.040.
- D. Any Waivers and Reductions that are sought under Section 65915(e) that would be required to accommodate the Housing Development including the Density Bonus Units. The City may request reasonable documentation from the applicant to support the request.

- E. Any Incentives and Concessions that are sought under Section 65915(d) accompanied by documentation of resulting cost reductions to provide for affordable housing costs. The City may request reasonable documentation from the applicant to support the request.
- F. Any requested additional bonus units under Section 65915(n).
- G. Any requested parking reductions under Section 65915(p). The City may request reasonable documentation from the applicant to support the request.
- H. Whether the applicant elects to receive a Density Bonus that is less than that mandated by Section 65915, including a Density Bonus of 0 (zero). In such cases, the applicant retains their entitlement to Incentives and Concessions.
- I. Documentation of how project complies with regulations regarding replacement units as described in Section 65915(c)(3).

#### **23C.14.040 Density Bonus Calculations and Procedures**

- A. Density Bonuses must be calculated as set forth in Section 65915, 65917.2, and pursuant to the Administrative Regulations.
- B. Density Bonus requests must accompany Housing Development permit applications and will be decided upon concurrent with the underlying Permit for the project.

#### **23C.14.050 Incentives and Concessions**

- A. For purposes of this Chapter, the number of Incentives and Concessions are counted as follows:
  - 1. Any Incentive and Concession that would otherwise require discretionary approval by the Zoning Officer, Zoning Adjustments Board or City Council of any single dimensional lot development standard, such as height or setbacks, or any single quantitative lot development standard, such as parking or open space, counts as one.
  - 2. A proposed Incentive and Concession that would involve exceedance of a single physical lot development standard counts as one even if that exceedance would otherwise require more than one Permit (e.g., extra height may require Permits for height, Floor Area Ratio, and/or number of stories but would count as one Incentive and Concession for height).
  - 3. Where it is ambiguous as to whether a proposed Incentive and Concession involves one or more dimensional or quantitative lot development standards, the stricter interpretation shall apply, as determined by the Zoning Officer, Zoning Adjustments Board or City Council, as the case may be.

- B. The City shall grant Incentives and Concession unless findings are made as set forth in Section 65915(d)(1).
- C. The City is not required to deny a proposed Incentive and Concession solely because it is able to make a finding under Section 65915(d)(1). The City bears the burden of proof for the denial of a requested Incentive and Concession.
- D. Unless denied under Section 65915, Incentives and Concessions will be exempt from discretionary review or Permits under this Title, other than Design Review, and by law do not modify the CEQA review status of a project.

**23C.14.060 Waivers and Reductions**

- A. An applicant may submit to the City a proposal for Waivers and Reductions of development standards that physically preclude construction of a Housing Development and Density Bonus Units meeting the criteria of Section 65915(b).
- B. The City may negotiate changes to the requested Waivers and Reductions as part of the Use Permit and Design Review process, in coordination with the applicant, in order to address aspects of the project that may be of concern in the community or inconsistent with overarching principles of the General Plan, Zoning Ordinance and Design Guidelines.
- C. The City may deny Waivers and Reductions for the reasons set forth in Section 65915(e)(1).

**23C.14.070 Qualifying Units**

Qualifying Units must meet the standards set forth in subdivisions B, C, and D of Section 23C.12.040.

**23C.14.080 Special Provisions**

In addition to requirements set forth in Sections 65915 - 65918 and this Chapter, the following Special Provisions apply to Density Bonuses in the City of Berkeley.

- A. [RESERVED]

**23C.14.090 Regulatory Agreements**

Prior to issuance of a Certificate of Occupancy for a Housing Development that has received a Density Bonus, the applicant must enter into a regulatory agreement in a form provided by the City that implements Sections 65915 – 65918 and this Chapter.

Section 3. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on March 12, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, and Arreguin.

Noes: None.

Absent: None.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Mark Numainville, City Clerk  
Subject: Minutes for Approval

RECOMMENDATION

Approve the minutes for the Council meetings of February 5, 2019 (special), February 19, 2019 (regular), February 26, 2019 (regular), and February 28, 2019 (special).

CONTACT PERSON

Mark Numainville, City Clerk, 981-6900

Attachments:

1. February 5, 2019–Special City Council Meeting
2. February 19, 2019–Regular City Council Meeting
3. February 26, 2019–Regular City Council Meeting
4. February 28, 2019–Special City Council Meeting

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Tuesday, February 5, 2019**

**6:00 P.M.**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:** 6:07 p.m.

**Present:** Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** Bartlett

Councilmember Bartlett present at 6:09 p.m.

**Worksession**

**1. Pedestrian Master Plan Update (Continued from December 4, 2018)**

**From: City Manager**

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** 2 speakers. Presentation made and discussion held.

**2. Referral Response: Small Business Support**

**From: City Manager**

Contact: Jordan Klein, Economic Development, 981-7530

**Action:** 2 speakers. Presentation made and discussion held.

Recess 8:59 p.m. – 9:12 p.m.

Councilmembers Bartlett and Harrison absent 9:12 p.m.

**3. Wildfire Safety Planning**

**From: City Manager**

Contact: David Brannigan, Fire, 981-3473

**Action:** 6 speakers. Presentation made and discussion held.

Councilmember Droste absent at 10:20 p.m.



## Adjournment

**Action:** M/S/C (Wengraf/Kesarwani) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Davila, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Bartlett, Droste, Harrison.

Adjourned at 10:44 p.m.

This is to certify that the foregoing is a true and correct record of the special meeting of February 5, 2019 as approved by the Berkeley City Council.

---

April Richardson, Assistant City Clerk

## Communications

- None

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

- None

## Supplemental Communications and Reports 3

### Item #1: Pedestrian Master Plan Update

1. Presentation, submitted by the Transportation Department

### Item #2: Referral Response: Small Business Support

2. Presentation, submitted by the Office of Economic Development

### Item #3: Wildfire Safety Planning

3. Presentation, submitted by the Fire Department
4. Bryce Nesbitt
5. Fire Chief David Brannigan

**MINUTES**  
**BERKELEY CITY COUNCIL MEETING**  
**Tuesday, February 19, 2019**  
**6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:** 6:13 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin

**Absent:** None

**Ceremonial Matters:**

- 1. Adjourned in memory of Jim Samuels, Berkeley Commissioner.

**City Manager Comments:** None

**City Auditor Comments:**

The City Auditor discussed the importance taking operational cost information and tradeoffs into consideration in the decision making process for the delivery of services. The City Auditor also noted her that her upcoming Audit Plan will include a focus on payments leaving the City.

**Public Comment on Non-Agenda Matters:** 7 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 15 speakers.

**Action:** M/S/C (Wengraf/Hahn) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

## Consent Calendar

- 1. Single Use Disposable Foodware and Litter Reduction Ordinance; Adding BMC Chapter 11.64**  
**From: Councilmember Hahn and Mayor Arreguin**  
**Recommendation:** Adopt second reading of Ordinance No. 7,639-N.S., the Single Use Foodware and Litter Reduction Ordinance, adding Chapter 11.64 to the Berkeley Municipal Code.  
**First Reading Vote:** All Ayes  
**Financial Implications:** See report  
Contact: Sophie Hahn, Councilmember, District 5, 981-7150  
**Action:** Adopted second reading of Ordinance No. 7,639-N.S.
- 2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 19, 2019**  
**From: City Manager**  
**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.  
**Financial Implications:** Various Funds - \$3,291,500  
Contact: Henry Oyekanmi, Finance, 981-7300  
**Action:** Approved recommendation.
- 3. Annual Purchase Orders for Turnouts, Personal Protective Equipment, Firefighting Tools and Equipment: L.N. Curtis and Sons**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute annual purchase orders and any amendments with L.N. Curtis and Sons for the purchases of: -Turnouts, and personal protective equipment (PPE) such as wildland coats and pants, firehoses, gloves, helmets, gear for hearing and eye protection, fire boots; and -Other firefighting tools and equipment such fire extinguishers, foam, firehose, ladders, bumps, and related devices on apparatus. The purchase order for FY 2019 shall not exceed \$220,000, with an annual increase no more than 5% each year up to a maximum of five years. A 20% contingency is added to cover costs arising from unforeseen incidents or operations for a total amount not to exceed (NTE) \$1,361,286.  
**Financial Implications:** See report  
Contact: Dave Brannigan, Fire Chief, (510) 981-3473  
**Action:** Adopted Resolution No. 68,756-N.S.

## Consent Calendar

- 4. FY19 Expanded Winter Shelter: Additional Allocation of Funding and Authorization of Contract Amendment with Dorothy Day House for Winter Shelter Operations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to amend Contract No. 10577D with Dorothy Day House to add \$114,960 to extend the Dorothy Day House Shelter at the Veteran's Building for a total contract amount not to exceed \$754,608 for the period July 1, 2017 through June 30, 2019; and allocate an additional \$59,000 in General Fund to support pest control, janitorial services and emergency maintenance costs at the expanded winter shelter.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,757–N.S.
- 5. Contract: Recruiting Advertising and Marketing Strategy for the Berkeley Police Department**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a police recruiting and marketing strategy contract with Epic Recruiting, in an amount not to exceed \$100,000 for a one-year period. The services provided in the contract are designed to assist the Berkeley Police Department with website design, video production, photography, branding, and social media/digital marketing with the goal of increasing the number of qualified recruit and lateral applicants.  
**Financial Implications:** General Fund - \$100,000  
Contact: Andrew Greenwood, Police, 981-5900  
**Action:** Adopted Resolution No. 68,758–N.S.
- 6. Contract: D'Arcy & Harty Construction, Inc. for Sanitary Sewer Rehabilitation and Replacement at Various Locations**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Sanitary Sewer Project, located on Mathews Street, Euclid Avenue and Backline, Mabel Street, Oregon Street, Derby Street, Fairview Street, Catalina Avenue Backline, Fairlawn Drive Backline, and Arlington Avenue; accepting the bid of the lowest responsive and responsible bidder, D'Arcy & Harty Construction, Inc.; and authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$1,363,373, which includes a 10% contingency of \$123,943.  
**Financial Implications:** Sanitary Sewer Fund - \$1,363,373  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,759–N.S.

## Consent Calendar

- 7. Filling Vacancies Among the Elected Representatives of the Poor – Confirmation of Ms. Lisa Romo**  
**From: Human Welfare and Community Action Commission**  
**Recommendation:** Adopt a Resolution confirming the appointment of Ms. Lisa Romo (District 3), as an elected representative of the poor on the Human Welfare Community Action Commission (HWCAC), having been selected by the commission members at the HWCAC November 28, 2018 meeting, and that her term expires November 28, 2022.  
**Financial Implications:** None  
Contact: Marie-Claire Katz, Commission Secretary, 981-5400  
**Action:** Adopted Resolution No. 68,760–N.S.
- 8. Filling Vacancies Among the Elected Representatives of the Poor – Confirmation of Ms. Denah Bookstein and Ms. Saba Deyhim**  
**From: Human Welfare and Community Action Commission**  
**Recommendation:** Adopt a Resolution confirming the appointments of Ms. Denah Bookstein (District 1) and Ms. Saba Deyhim (District 2) as elected representatives of the poor on the Human Welfare and Community Action Commission (HWCAC), having been voted at the HWCAC January 16, 2019 meeting, and that their terms expire November 28, 2022.  
**Financial Implications:** None  
Contact: Marie-Claire Katz, Commission Secretary, 981-5400  
**Action:** Adopted Resolution No. 68,761–N.S.

## Council Consent Items

**9. Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue**

**From: Mayor Arreguin**

**Recommendation:** Short-Term Referral to the City Manager to develop ordinance amendments permitting cannabis events in the City of Berkeley and designating Cesar Chavez Park as an approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Approved recommendation as amended to read as follows:

*Short-Term Referral to the City Manager to develop ordinance amendments permitting up to three cannabis events per year in the first year in the City of Berkeley and designating Cesar Chavez Park as the sole approved location for cannabis events, provided such events are organized and licensed as required by the State of California. The ordinance shall: 1. reference Resolution No. 68,326-N.S., declaring that Berkeley is a sanctuary for adult use cannabis, 2. specify procedures for such events that replicate similar alcohol related event protocols. The City Council will revisit the provisions of the ordinance following the first year of implementation.*

**10. Declaring a California Homelessness State of Emergency**

**From: Mayor Arreguin, and Councilmembers Hahn, Davila, and Harrison**

**Recommendation:** Adopt a Resolution requesting that Governor Newsom declare a California Homelessness State of Emergency, and direct more resources to State Departments (e.g. Caltrans). Send a copy of the Resolution to Governor Newsom, Congresswoman Barbara Lee, State Senator Nancy Skinner, State Assemblymember Buffy Wicks, State Superintendent of Public Education Tony Thurmond and Caltrans District Director Tony Tavares.

**Financial Implications:** None

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Adopted Resolution No. 68,762–N.S.

## Council Consent Items

11. **Berkeley Youth Alternatives' 15th Annual Crab Feed Fundraiser: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Davila**  
**Recommendation:** Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$180 from Councilmember Cheryl Davila, to Berkeley Youth Alternatives, for their 15th Annual Crab Feed Fundraiser on February 28, 2019, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Funds - \$180  
Contact: Cheryl Davila, Councilmember, District 2, 981-7120  
**Action:** Adopted Resolution No. 68,763–N.S. revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Robinson - \$150; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Harrison - \$100; Councilmember Bartlett - \$250; Mayor Arreguin - \$100.
12. **Ohlone Park 50th Anniversary Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**  
**From: Councilmember Harrison**  
**Recommendation:**  
1. Adopt a Resolution co-sponsoring the celebration of Ohlone Park's 50th anniversary on June 1st, 2019.  
2. Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$250 from Councilmember Harrison, to the Friends of Ohlone Park, the fiscal sponsor of the 50th anniversary celebration, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Harrison and any other Councilmembers who would like to contribute.  
**Financial Implications:** Councilmember's Discretionary Fund - \$250  
Contact: Kate Harrison, Councilmember, District 4, 981-7140  
**Action:** Councilmembers Kesarwani and Davila added as co-sponsors. Adopted Resolution No. 68,764–N.S. (Co-Sponsorship) as revised in Supplemental Communications Packet #2 to include the waiver of Berkeley fees for the event; and adopted Resolution No. 68,765–N.S. (Relinquishment), revised to include contributions from the following Councilmembers up to the amounts listed: Councilmember Robinson - \$150; Councilmember Wengraf - \$100; Councilmember Hahn - \$100; Councilmember Harrison - \$250; Councilmember Kesarwani - \$250; Councilmember Davila - \$100; Councilmember Bartlett - \$100; Mayor Arreguin - \$250.

## Council Consent Items

**13. Support for AB 161 (Skip the Slip)**

**From: Councilmembers Harrison, Robinson, and Davila**

**Recommendation:** Send a letter of support for AB 161, which requires that proof of purchase (receipts) be provided only in electronic form unless the customer specifically requests paper, to Senator Skinner and Assemblymember Wicks

**Financial Implications:** None

Contact: Kate Harrison, Councilmember, District 4, 981-7140

**Action:** Approved recommendation.

## Action Calendar – Public Hearings

**14. Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus) (Continued from January 29, 2019. Item contains revised material.)**

**From: City Manager**

**Recommendation:** Conduct a public hearing, and upon conclusion, adopt the first reading of Zoning Ordinance amendments that repeal obsolete Density Bonus regulations (Section 23C.12.050: State of California Density Bonus Requirements) and adopt a new, standalone Density Bonus chapter (Chapter 23C.14) that complies with California State Government Code 65915–65918: Density Bonuses and Other Incentives.

**Financial Implications:** None

Contact: Timothy Burroughs, Planning and Development, 981-7400

**Action:** Item 14 held over to March 12, 2019.

## Action Calendar

**15. Contract: Pride Industries for Citywide Janitorial Services at Various Locations**

**From: City Manager**

**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a three-year contract and any amendments with Pride Industries to provide Citywide Janitorial Services at twenty nine (29) various City locations and facilities for the period May 1, 2019 to April 30, 2022, in an amount not to exceed \$3,725,735, with an option for two (2) one-year extensions for a maximum five (5) year contract for an amount not to exceed \$6,414,881, subject to the City's annual budget appropriation process.

**Financial Implications:** See report

Contact: Henry Oyekanmi, Finance, 981-7300

**Action:** Item 15 held over to March 12, 2019.



## Action Calendar – Old Business

16. **Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program** *(Continued from January 22, 2019.)*

**From: Councilmembers Bartlett, Worthington, and Davila**

**Recommendation:** That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report. Recommending allowing 4 equity applicants and 2 non-equity applicants to apply and be processed by the City within 2 years.

**Financial Implications:** Minimal

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

**Action:** 9 speakers. M/S/C (Bartlett/Arreguin) to approve the recommendation as revised in Supplemental Communications Packet #2 and written below:

*That the Council provides requested direction to the Planning Department on how to proceed with the Equity Program recommended by the Cannabis Commission in the October 9, 2018 staff report; with the following specifications: Recommendation of creating 1 new dispensary license for equity applicants. It is envisioned as new licenses are created, such as, delivery, manufacturing, and micro-business, permits will be reserved for equity applicants for each new category.*

**Vote:** All Ayes.

Recess 7:58 p.m. – 8:18 p.m.

- 17a. **Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27** *(Continued from January 29, 2019.)*

**From: Commission on Labor**

**Recommendation:** Adopt first reading of an Ordinance proposing revisions to Berkeley's Living Wage Ordinance (LWO), BMC Chapter 13.27, revising Sections .020, .050, .070, .080 and .090 and adding Sections .045, .110, .120, .130, and .140 to make the application and administration of the LWO consistent with the Minimum Wage Ordinance (MWO) where appropriate, and modifying Sections .040 and .050 to 1. limit waivers of the LWO for a maximum of one year, and 2. clarifying when employees covered by the LWO are entitled to receive the cash value of the health care benefit.

**Financial Implications:** None

Contact: Delfina Geiken, Commission Secretary, 981-5400

## Action Calendar – Old Business

- 17b. Companion Report: Council Referral-Proposed Amendments to Berkeley’s Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27** *(Continued from January 29, 2019.)*

**From: City Manager**

**Recommendation:** Adopt first reading of an Ordinance amending BMC Chapter 13.27, which proposes: 1. adding a definition of “Department” in Section 13.27.020, 2. limiting new waivers of the Living Wage Ordinance (LWO) to one year in Section 13.27.040, 3. clarifying language related to wages and benefits in the Section 13.27.050 and adding Section 13.27.110 related to severability.

**Financial Implications:** None

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Item 17b moved to Consent Calendar. Adopted first reading of Ordinance No. 7,640-N.S. as written in Supplemental Communications Packet #1 to include posting, noticing and payroll record requirements for new or renewed contracts, to enhance the ordinance language as it relates to “retaliation” and to add the Section “Relationship to other requirements”, which establishes that if other laws or ordinances are enacted that provide better wages or benefits for employees, that those standards would supersede the Living Wage Ordinance. Second reading scheduled for March 12, 2019.

## Action Calendar – New Business

- 18. Referral Response: Updated Policy for Emergency Standby Officers for the Mayor and Councilmembers**

**From: City Manager**

**Recommendation:** Adopt a Resolution updating the selection process and criteria for the appointment of Standby Officers for the Mayor and each Councilmember to serve in the event the elected official is unavailable during an emergency, and rescinding Resolution No. 57,906-N.S.

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, 981-6900; Farimah Brown, City Attorney, 981-6950

**Action:** Item 18 moved to Consent Calendar. Referred Item to the Agenda and Rules Policy Committee.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

- 19a. Assessment of Vacant Properties**

**From: Human Welfare and Community Action Commission**

**Recommendation:** Direct the City Manager to develop a plan to locate the 3,754 “vacant housing units” noted in the “Employment, Economy, Housing “ data in the “City of Berkeley Fiscal years 2018 & 2019 Adopted Biennial Budget” and to assess what would be required to bring as many of the properties to market as possible.

**Financial Implications:** See report

Contact: Marie-Claire Katz, Commission Secretary, 981-5400

## Action Calendar – New Business

**19b. Companion Report: Assessment of Vacant Properties**

**From: City Manager**

**Recommendation:** Refer the issue of vacant housing units to Council's process for setting priorities for Measure O funds.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Item 19b moved to Consent Calendar. Approved recommendation.

**20a. Resolution declaring City of Berkeley will not invest City funds in any entity involved in the production or upgrading of weapons**

**From: Peace and Justice Commission**

**Recommendation:** Adopt Resolution submitted by the Peace and Justice Commission declaring the City of Berkeley will not invest City funds in any entity involved in the production or upgrading of weapons.

**Financial Implications:** None

Contact: Shallon Allen, Commission Secretary, 981-7071

**20b. Companion Report: Resolution Declaring City of Berkeley Will Not Invest City Funds in Any Entity Involved in the Production or Upgrading of Weapons**

**From: City Manager**

**Recommendation:** Continue to support the City of Berkeley's existing investment policy which prohibits investments in gun manufacturers.

**Financial Implications:** None

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** Item 20a moved to Consent Calendar. Adopted Resolution No. 68,766–N.S. revised as follows:

1. Add a Whereas clause to define weapons to read as follows:

*WHEREAS, Weapon is defined as any instrument or device for use in attack or defense in combat, fighting, or war, as a sword, rifle, or cannon; anything used against an opponent, adversary, or victim; and Weapon Systems is defined as any integrated system, usually computerized, for the control and operation of weapons of a particular kind.*

2. Revise the first Resolved clause to read as follows:

*NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Berkeley that the City of Berkeley will not invest City funds in weapons manufacturers, and decides that it shall be City policy to divest from such entities.*

**Vote:** All Ayes.

## Council Action Items

21. **Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

**From: Councilmembers Harrison, Robinson, and Hahn**

**Recommendation:** Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for owner occupied projects by modifying property lines so that no lot is large enough to construct five or more units. Adopt an updated resolution pursuant to BMC 22.20.065 (Affordable Housing Mitigation Fee) addressing the same issue for rental projects.

**Financial Implications:** See report

Contact: Kate Harrison, Councilmember, District 4, 981-7140

**Action:** M/S/C (Harrison/Davila) to accept revised material from Councilmember Harrison on Item 21.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Droste.

**Action:** 3 speakers. M/S/Failed (Droste/Wengraf) to adopt the revised material submitted by Councilmember Harrison revised to read as follows:

1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report.
2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.
3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.
4. The Planning Commission is to consider the following language from the item submitted at the meeting: *It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.*

**Vote:** Ayes – Kesarwani, Wengraf, Droste; Noes – Bartlett, Harrison, Hahn, Robinson, Arreguin; Abstain – None; Absent – Davila.

Councilmember Davila absent 8:38 p.m. – 9:14 p.m.

## Council Action Items

**Action:** M/S/Carried (Harrison/Hahn) to adopt the revised material submitted by Councilmember Harrison revised to read as follows:

1. Refer to the Planning Commission an amendment to BMC Section 23C.12.020 (Inclusionary Housing Requirements – Applicability of Regulations) and BMC Section 22.20.065 (Affordable Housing Mitigation Fee) to close a loophole allowing prospective project applicants to avoid inclusionary affordable housing requirements for projects by modifying property lines so that no lot is large enough to construct five or more units; the Commission should return to Council with a report by April 30, 2019.
2. Refer to the Planning Commission to consider modifying the structure of in-lieu fees for owner-occupied developments to a flat per-unit fee, as with rental developments, or a per square foot fee; the Commission should return to Council with a report.
3. Refer to the Housing Advisory Commission to assess the appropriateness of the fee level as suggested in the proposed amendments to BMC 23C.12.
4. The Planning Commission is to consider the following language from the item submitted at the meeting: *It is possible that the new fee structure will be adopted prior to the Housing Advisory Commission approving the level of the fee. In this instance, those projects that opt to pay the in-lieu fee and are permitted after the new fee structure is adopted but before the new fee level is adopted shall be given the choice of paying the current fee level, or the one that is adopted.*

**Vote:** Ayes – Bartlett, Harrison, Hahn, Robinson, Arreguin; Noes – Wengraf; Abstain – Kesarwani, Droste; Absent – Davila.

## Information Reports

22. **Referral Response: Supporting Worker Cooperatives**  
**From: City Manager**  
Contact: Jordan Klein, Economic Development, 981-7530  
**Action:** Item 22 held over to February 26, 2019.
23. **Referral Response: City Maintained Below Market Rate Units (BMR) Online Resource**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Received and filed.
24. **Mental Health Commission 2018/2019 Work Plan**  
**From: Mental Health Commission**  
Contact: Karen Klatt, Commission Secretary, 981-5400  
**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 0 speakers.**

## Adjournment

**Action:** M/S/C (Hahn/Wengraf) to adjourn the meeting.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin;  
Noes – None; Abstain – None; Absent – Davila.

Adjourned at 9:14 p.m.

This is to certify that the foregoing is a true and correct record of the regular meeting of February 19, 2019 as approved by the Berkeley City Council.

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Rose Thomsen, Deputy City Clerk

## Communications

### **Item #1: Single Use Disposable Foodware and Litter Reduction Ordinance; Adding BMC Chapter 11.64**

1. Alison Piccoli
2. Diana Bohn
3. Carol Denney
4. Jan Cecil
5. Steve
6. Rose Schweig

### **Encampments & Homelessness**

7. Richard James
8. Erik Dreher (2)
9. Josh Maddox
10. Dorothea Dorenz
11. Unknown
12. Bree Jenkins
13. Summi Kaipa

### **San Pablo Park**

14. Barbara Gilbert
15. Jenny Strauss
16. Kelly Zito
17. Kester Allen

### **Bike Lanes**

18. Chuck Siegel
19. Marco Facioni
20. Liza Lutzker
21. Dan Leaverton
22. Katy Love
23. Jonathan Walden
24. James Sayre

- 25. Karl Wanaselja
- 26. Caroline Swinehart
- 27. Roger Pritchard
- 28. Lori Hines

**ISP Sonic & 5G**

- 29. Phoebe Anne Sorgen (2)
- 30. Soula Culver
- 31. Max Ventura

**North Berkeley BART**

- 32. Sarah Bardeen
- 33. Phil Erickson
- 34. Vicki Sommer
- 35. Alan Louwerse
- 36. Dana Moskowitz
- 37. Councilmember Harrison
- 38. Harvey Smith
- 39. Diana Damonte
- 40. Bob Whalen
- 41. Mary Behm-Steinberg

**Sugar Sweetened Beverages**

- 42. Holly Scheider

**Neo Nazi**

- 43. Judy Ann Alberti
- 44. Fred Dodsworth
- 45. Donald Goldmacher

**Climate Emergency**

- 46. Sierra Club of San Francisco Bay
- 47. Kelly Hammargren
- 48. Jane Kelly
- 49. Alan Gould
- 50. Thomas Lord

**West Berkeley Senior Center**

- 51. Richard Castrillon, on behalf of the Commission on Aging (2)

**Police Transparency (SB 1421)**

- 52. George Lippman
- 53. Donald Goldmacher
- 54. Sheila Goldmacher
- 55. Janice Schroeder

**1155-73 Hearst**

56. Yashu Jiang

**1444 5<sup>th</sup> Street**

57. Stuart Knowles of Trilogy Asset Management

58. Daro Quiring, President of the Oceanview Townhouse Assoc.

**People's Park**

59. Barryett Enge

**Undergrounding**

60. Bryce Nesbitt

**Business License**

61. Arthur Stopes III

**Berkeley Marina**

62. Dave Marcolini

**Strategic Plan**

63. Steve Kromer

**Construction Parking**

64. Maria Bogakos

**Self-Driving Cars**

65. Rhiannon

**Delivering Mail While Black**

66. Margy Wilkinson

**Kent's Tiny Home**

67. Margy Wilkinson

**Human Rights Worldwide**

68. Chairperson, Peace and Justice Commission

**Right to Daylight**

69. Fred Dodsworth

**Lawsuit**

70. Pil Orbison

**Sales Tax Fraud**

71. Arthur Stopes III



**2-1-1 Monthly Report for December**

72. Eden I&R, Inc.

**Transit Passes for Tenants**

73. Rhiannon

**Paradise Fire**

74. Kelly Hammargren

**State and National Eviction Law**

75. Autumn Moon

**Pacific Steel Bankruptcy**

76. Janice Schroeder

**Zero Waste Commission**

77. Kelly Hammargren

**Save the House of Mr. Powell**

78. Diana Bohn

**Supplemental Communications and Reports 1**

**Item #16: Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program**

79. Nuha Khalfay, Chair, Community Health Commission

**Item #17.b: Companion Report: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27**

80. Supplemental materials, submitted by HHCS

**Supplemental Communications and Reports 2**

**Item #5: Contract: Recruiting Advertising and Marketing Strategy for the Berkeley**

81. Christine Schwartz

**Item #9: Short-Term Referral: Develop Ordinance permitting Cannabis Events and designate Cesar Chavez Park as an Approved Venue**

82. Carol Denney

**Item 12: Ohlone Park 50th Anniversary Celebration: City Sponsorship and Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**

83. Revised material, submitted by Councilmember Harrison

**Item #14: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

84. Rhiannon

**Item #16: Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program**

85. Supplemental materials, submitted by Councilmember Bartlett

**Item #17a: Council Referral-Proposed Amendments to Berkeley's Living Wage Ordinance: Berkeley Municipal Code Chapter 13.27**

86. Barbara Gilbert

**Item 20a: Resolution declaring City of Berkeley will not invest City funds in any entity involved in the production or upgrading of weapons**

87. Igor Tregub

**Item #21: Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

88. Revised material, submitted by Councilmember Harrison

89. Elisa Mikiten

90. Jeffrey Spahn & Niels Traynor

### **Supplemental Communications and Reports 3**

**Item #14: Density Bonus Ordinance Revisions - Repeal Existing Section 23C.12.050 (State of California Density Bonus Requirements) and Adopt New Chapter 23C.14 (Density Bonus)**

91. Rhiannon

**Item #16: Providing Requested Direction to the City Manager and Planning Department on the Number of Cannabis Retail Establishments and the Creation of an Equity Program**

92. Martha Belcher

**Item 19b: Companion Report: Assessment of Vacant Properties**

93. Charles Clarke

**Item #21: Refer to the Planning Commission an amendment to BMC Chapter 23C.12.020 (Inclusionary Housing Requirements - Applicability of Regulations) and the Affordable Housing Mitigation Fee Resolution to Close a Loophole for Avoiding the Mitigation Fee through Property Line Manipulation**

94. Supplemental materials, submitted by Councilmember Harrison

95. Niels Traynor, on behalf of Mary Law

96. Igor Tregub

**Disposable Free Berkeley**

97. Ecology Center

98. Calliope Askins, on behalf of the Oxford School's Heirs to Our Oceans

**Berkeley Marina – L & M Dock**

99. No name

**MINUTES  
BERKELEY CITY COUNCIL MEETING  
Tuesday, February 26, 2019  
6:00 PM**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:** 6:00 p.m.

**Present:** Davila, Droste, Hahn, Harrison, Robinson, Wengraf, Arreguin

**Absent:** Bartlett, Kesarwani

Councilmember Bartlett present at 6:02 p.m.

Councilmember Kesarwani present at 6:03 p.m.

**Ceremonial Matters:**

1. Recognition of Jerome Solberg & The Actors Ensemble
2. Adjourned in Memory of:
  - a. Jeff Adachi, former San Francisco Public Defender
  - b. Katherine L. Fischer-Clark, Local Advocate
  - c. Palestinians that have died in Gaza

**City Manager Comments:** None

**City Auditor Comments:** None

**Public Comment on Non-Agenda Matters:** 10 speakers.

**Consent Calendar**

**Public Comment on Consent Calendar and Information Items Only:** 11 speakers.

## Consent Calendar

**Action:** M/S/C (Hahn/Wengraf) to adopt the Consent Calendar in one motion except as indicated.

**Vote:** All Ayes.

**1. Minutes for Approval**

**From:** City Manager

**Recommendation:** Approve the minutes for the Council meetings of January 15, 2019 (special), January 22, 2019 (regular), January 29 (regular), and January 31, 2019 (special closed and special).

**Financial Implications:** None

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Approved minutes as submitted.

**2. Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on February 26, 2019**

**From:** City Manager

**Recommendation:** Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

**Financial Implications:** Measure T1 Fund - \$568,759

Contact: Henry Oyekanmi, Finance, 981-7300

**Action:** Approved recommendation.

**3. Dorothy Day House License Agreements: Veterans Memorial Building and Old City Hall**

**From:** City Manager

**Recommendation:** Adopt two Ordinances authorizing the City Manager or her designee to execute license agreements and any amendments thereto with Dorothy Day House to provide services at the Veterans' Memorial Building at 1931 Center Street and the Old City Hall at 2134 Martin Luther King Jr. Way.

**Financial Implications:** See report

Contact: Kelly Wallace, Housing and Community Services, 981-5400

**Action:** Adopted first reading of Ordinance No. 7,641–N.S. (1931 Center St); and Ordinance No. 7,642–N.S. (2134 Martin Luther King Jr. Way). Second readings scheduled for March 12, 2019.

## Consent Calendar

- 4. Receipt of and Contract Authorization for Kaiser Permanente's Northern California Community Benefit Program**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to accept \$150,000 in grant funds from the Kaiser Permanente Northern California Community Benefit Program (Grant Number 20663336) to support the Pathways STAIR Center, and to enter into a grant agreement (CMS No. EC183) and any necessary grant agreement amendments for this award.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,767–N.S.
- 5. Contract: Building Opportunities for Self-Sufficiency for Representative Payee Services**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to enter into a contract and any amendments up to not to exceed (NTE) \$75,000 through March 31, 2020 with vendor Building Opportunities for Self-Sufficiency for representative payee services.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,768–N.S.
- 6. Amendment of Provider Participation Agreement with Department of Health Care Services for Targeted Case Management**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager or her designee to submit amendments to the Provider Participation Agreement with the State of California Department of Health Care Services, to accept the grant awards, and execute any resultant revenue agreements and amendments to conduct Targeted Case Management (TCM) services in Aging Services and Public Health Divisions within the Health, Housing & Community Services Department.  
**Financial Implications:** See report  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Adopted Resolution No. 68,769–N.S.

## Consent Calendar

- 7. Contract No. 8,749 Amendment with Official Payments Corporation (OPC)**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute a contract amendment with Official Payments Corporation (OPC) (contract no. 8,749) approving online credit card payment processing transaction fees of 2.5%, borne by the City, for transactions in the Recreation Division's online registration system, for an amount not to exceed \$90,000 for the projected period commencing on or about March 1, 2019 through November 30, 2022, with an option to extend for up to two (2) additional years.  
**Financial Implications:** See report  
Contact: Scott Ferris, Parks, Recreation and Waterfront, 981-6700  
**Action:** Adopted Resolution No. 68,770–N.S.
- 8. Contract No. 9114F Amendment – Stockton Tri Industries, Inc. to Clean, Paint, and Repair Refuse and Recycling Debris Bins**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 9114F with Stockton Tri Industries, Inc. to increase the contract amount by \$40,000 for a total contract amount not to exceed \$200,000 to clean, paint, and repair refuse and recycling debris bins through contract expiration of June 30, 2019.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,771–N.S.
- 9. Contract: D'Arcy & Harty Construction Inc. for Sanitary Sewer Rehabilitation and Replacement at Euclid Avenue and Regal Road Backline**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Sanitary Sewer Rehabilitation and Replacement- Euclid Avenue and Regal Road Backline project; accepting the bid of the lowest responsive and responsible bidder, D'Arcy & Harty Construction Inc. (D'Arcy & Harty); and authorizing the City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$812,026, which includes a 10% contingency in the amount of \$73,821.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,772–N.S.

## Consent Calendar

10. **Contract: Mosto Construction for Sanitary Sewer Rehabilitation and Replacement - Urgent Sewer Repair Project FY 2019**  
**From: City Manager**  
**Recommendation:** Adopt a Resolution approving plans and specifications for the Urgent Sewer Repair Project FY 2019 with sites located throughout the City; accepting the bid of the lowest responsive and responsible bidder, Mosto Construction; and, authorizing City Manager to execute a contract and any amendments, extensions, or other change orders until completion of the project in accordance with the approved plans and specifications, in an amount not to exceed \$398,808, which includes a 10% contingency of \$36,255.  
**Financial Implications:** See report  
Contact: Phillip Harrington, Public Works, 981-6300  
**Action:** Adopted Resolution No. 68,773–N.S.
11. **Excused Absence for Councilmember Ben Bartlett**  
**From: Mayor Arreguin**  
**Recommendation:** Excuse Councilmember Ben Bartlett from the November 27, 2018 Council meeting as a result of illness.  
**Financial Implications:** None  
Contact: Jesse Arreguin, Mayor, 981-7100  
**Action:** Approved recommendation.



## Council Consent Items

### 12. Establishment of Traffic Circle Policy Task Force

**From: Mayor Arreguin, and Councilmembers Bartlett, Droste and Hahn**

**Recommendation:** Establish a Traffic Circle Policy Task Force comprised of representatives from neighborhoods currently maintaining traffic circles. Members will be appointed by the Mayor and chosen from geographically diverse parts of the city, including one representative from Berkeley Partners for Parks. Staff participating will be appointed by the City Manager.

The charge of this Task Force is to: 1. Evaluate the City's current traffic circle vegetation policy for consideration by the City Council and Traffic Engineer; 2. Find a solution, through active participation and engagement with the community, that respects: -Environmental Policy; -Habitat; -Safety and Performance Standards; - Existing and future liability issues that address sight lines; and 3. Deliver a policy to City Council for adoption prior to August 9, 2019. 4. Conduct a community-led process to update that policy to ensure pedestrian/bicycle/vehicle safety and community efforts to beautify traffic circles.

Task Force activities may include, but are not limited to: -Recommend appropriate characteristics and parameters for allowed plantings based on input from the community and city staff; -Recommend a policy that ensures lines of sight and other important safety considerations; -Work with City staff to conduct a survey of current traffic circles and their vegetation; -Conduct a survey of neighborhood associations, neighborhood captains, community and community groups such as Berkeley Partners for Parks to determine which traffic circles are being maintained by community members; -Examine the City of Oakland's 'Adopt a Spot' initiative to encourage community involvement in the maintenance of public spaces by loaning tools, supplies, and technical assistance to committed members of the community; - Host a presentation from City staff to better understand concerns with the current traffic circle policy and any safety concerns that should be taken into consideration; - Recommend a clear set of guidelines/criteria to allow for community maintenance of traffic circles, with input from city staff; -Outline the appropriate community outreach strategy and process to share the updated policy for managing vegetation in traffic circles; -Recommend a replanting strategy, with emphasis on drought-resistant plants.

**Financial Implications:** See report

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Approved recommendation.

### 13. Adopt a resolution to denounce and oppose white nationalist and neo-Nazi groups including their actions *(Reviewed by the Agenda and Rules Committee)*

**From: Councilmembers Davila, Bartlett, Harrison and Mayor Arreguin**

**Recommendation:** Adopt a resolution denouncing and opposing white nationalist and neo-Nazi groups including their actions.

**Financial Implications:** None

Contact: Cheryl Davila, Councilmember, District 2, 981-7120

**Action:** Adopted Resolution No. 68,774–N.S.

## Council Consent Items

**14. Support AB 5 and Write Letter of Support to CA Assemblymember Lorena Gonzalez**

**From: Councilmembers Bartlett, Harrison, Davila, and Hahn**

**Recommendation:** That the Mayor of Berkeley and Members of the City Council support CA State Assembly Bill 5 (AB 5) by sending a letter of support to Author Assemblymember Lorena Gonzalez. Assembly Bill 5 codifies and clarifies the application of Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903, which established the 3-part “ABC” test to defend the labor rights of misclassified workers and ensure they receive the compensation they deserve.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

**Action:** Approved recommendation.

**15. Ensuring the Sustainability of the Berkeley Flea Market**

**From: Councilmembers Bartlett, Hahn and Davila**

**Recommendation:** Short-term referral to the City Manager to provide material and strategic assistance to the Berkeley Flea Market, to sustain and enhance its ability to serve both merchant participants and the community at large.

**Financial Implications:** See report

Contact: Ben Bartlett, Councilmember, District 3, 981-7130

**Action:** Councilmember Kesarwani added as a co-sponsor. Approved recommendation.

**16. Support for AB 177 (Election Day Holiday)**

**From: Councilmembers Robinson, Bartlett, Hahn and Droste**

**Recommendation:** Send a letter to Senator Skinner, Assemblymember Wicks, and Assemblymember Low supporting AB 177, which would add any day a statewide general election is held to the list of state holidays.

**Financial Implications:** None

Contact: Rigel Robinson, Councilmember, District 7, 981-7170

**Action:** Approved recommendation.

## Action Calendar – Public Hearings

### 17. Proposed Location for the Apothecarium Cannabis Retailer

**From: City Manager**

**Recommendation:** Conduct a public hearing to consider information pertaining to Apothecarium's proposed location at 2312 Telegraph Avenue, and upon conclusion, adopt a Resolution either to approve or to deny the proposed location.

**Financial Implications:** See report

Contact: Timothy Burroughs, Planning and Development, 981-7400

**Public Testimony:** The Mayor opened the public hearing. 50 speakers.

Recess 9:34 p.m. – 9:38 p.m.

**Action:** M/S/C (Robinson/Arreguin) to close the public hearing.

**Vote:** All Ayes.

**Action:** M/S/C (Arreguin/Robinson) to suspend the rules and extend the meeting to 11:30 p.m.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Robinson, Droste, Arreguin; Noes – Harrison, Hahn, Wengraf.

**Action:** M/S/C (Robinson/Davila) to adopt Resolution No. 68,775–N.S. adopting a new location for the Apothecarium dispensary at 2312 Telegraph Avenue amended to:

- 1) Delete “despite presenting adequate proof of landlord approval multiple times during the selection process” in the sixth Whereas clause.
- 2) Require the Apothecarium to lease at least 10 and up to 25 parking spaces in the Telegraph-Channing Garage or another parking facility in close proximity.
- 3) Require the Apothecarium to display signage and provide information to customers regarding parking and transit resources.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Robinson, Droste, Arreguin; Noes – Hahn, Wengraf.

## Action Calendar

- 18. Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission** *(Continued from January 29, 2019. Item contains revised material)*.  
**From: Councilmembers Worthington, Davila, Harrison, and Bartlett**  
**Recommendation:** That the City Council adopt the attached Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission. This ordinance prohibits the award of city contracts to vendors acting as ICE data brokers, or those providing extreme vetting services.  
**Financial Implications:** Minimal  
Contact: Kriss Worthington, Councilmember, District 7, 981-7170  
**Action:** Moved to Consent Calendar. Referred the item, including the version in Supplemental Communications Packet #1, to the Agenda & Rules Committee and request that the City Attorney review the proposed ordinance.
- 19. City Auditor's Quarterly Summary Report on Audit Recommendations**  
**From: Auditor**  
Contact: Jenny Wong, Auditor, 981-6750  
**Action:** 5 speakers. Presentation made and discussion held.
- 20. Referral Response: 1000 Person Plan to Address Homelessness**  
**From: City Manager**  
Contact: Kelly Wallace, Housing and Community Services, 981-5400  
**Action:** Item held over to March 26, 2019.

## Action Calendar

### 21. Missing Middle Report

**From: Councilmembers Droste, Bartlett, Robinson and Kesarwani**

**Recommendation:** Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to: -Identifying where missing middle housing is optimal/should be permitted. -Allowing the possibility of existing houses/footprints/zoning envelopes to be divided up to 4 units. -Excluding very high fire severity zones as defined by the CalFire and/or the City of Berkeley.

-Considering form-based zoning as a potential strategy. -Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units. -Creating incentives for building more than one unit on larger than average lots. -Provision of tenant protections, demolition controls, and no net loss provisions.

**Financial Implications:** See report

Contact: Lori Droste, Councilmember, District 8, 981-7180

**Action:** 15 speakers. M/S/Failed (Droste/Arreguin) to suspend the rules and extend the meeting to 11:50 p.m.

**Vote:** Ayes – Kesarwani, Bartlett, Robinson, Droste, Arreguin; Noes – Davila, Harrison, Hahn, Wengraf.

**Action:** M/S/C (Wengraf/Arreguin) to continue Item 21 to March 26, 2019.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Droste.

### 22. Retirement of Council Ad Hoc Subcommittees

**From: Mayor Arreguin**

**Recommendation:** Adopt a Resolution:

1. Officially retiring the Ad Hoc Subcommittee on Community Benefits, Ad Hoc Subcommittee on Urban Shield, Ad Hoc Subcommittee on Small Business, Ad Hoc Subcommittee on Automatic Door Openers effective immediately, and;
2. Retiring the Ad Hoc Subcommittee on Paid Family Leave and Fair Work Week, and Ad Hoc Subcommittee on Climate Emergency effective March 31, 2019, and requesting that these Ad Hoc Subcommittees complete their business before that time and make a recommendation to the City Council.

**Financial Implications:** None

Contact: Jesse Arreguin, Mayor, 981-7100

**Action:** Moved to Consent Calendar. Adopted Resolution No. 68,776–N.S.

**Vote:** Ayes – Kesarwani, Bartlett, Harrison, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – Davila.

## Action Calendar – Continued Business

## Action Calendar – Continued Business

**A. Referral Response: Supporting Worker Cooperatives** *(Continued from February 19, 2019)*

**From: City Manager**

Contact: Jordan Klein, Economic Development, 981-7530

**Action:** 20 speakers. M/S/C (Arreguin/Wengraf) to:

- 1) Receive the report.
- 2) Refer to the budget process to continue the technical assistance process for Fiscal Years 2020-2021.
- 3) Refer to the City Manager to add a buy local preference for local cooperatives
- 4) Refer to the City Manager to incorporate an update on cooperatives in to the regular OED presentations to Council.

**Vote:** All Ayes.

Recess 8:10 p.m. – 8:21 p.m.

## Information Reports

**23. City Council Short Term Referral Process – Monthly Update**

**From: City Manager**

Contact: Mark Numainville, City Clerk, 981-6900

**Action:** Received and filed.

**24. FY 2018 Fourth Quarter Investment Report: Ended June 30, 2018**

**From: City Manager**

Contact: Henry Oyekanmi, Finance, 981-7300

**Action:** Received and filed.

**25. FY 2019 First Quarter Investment Report: Ended September 30, 2018**

**From: City Manager**

Contact: Henry Oyekanmi, Finance, 981-7300

**Action:** Received and filed.

**26. goBerkeley Parking Management Program - Recommended Adjustments for April 1, 2019**

**From: City Manager**

Contact: Phillip Harrington, Public Works, 981-6300

**Action:** Received and filed.

**Public Comment – Items Not Listed on the Agenda - 3 speakers.**

## Adjournment

Adjourned at 11:30 p.m.

This is to certify that the foregoing is a true and correct record of the regular meeting of February 26, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## **Communications**

### **Item #17: Proposed Location for the Apothecarium Cannabis Retailer**

1. Jim Hrabetin
2. Laurie Gardner
3. Dana Johnson
4. Keith Cranmer
5. Tony Green
6. Dale Sophiea (2)
7. Bruce Slavin

### **Open Door Initiative**

8. Mansour Id-Deen

### **Oppose CPUC “Resource Adequacy Proposed Decision”**

9. Audrey Ichinose

### **Implementation of Law: Amount of Stuff People Can Have on Public Property**

10. David Lerman

### **San Pablo Park Gun Violence**

11. Alexis Filippini

### **Homelessness – Zoning and Bureaucracy**

12. Jennifer Pearson
13. Carol Denney

### **Wildfire Safety Planning**

14. Christine Schwartz

### **Rodeo Issues**

15. Eric Mills, on behalf of Action for Animals

### **5G**

16. Christina Tuccillo
17. Phoebe Anne Sorgen

### **Climate Change**

18. Thomas Lord (3)

### **Ad Hoc Subcommittee on Climate Emergency Declaration**

- 19. Linda Currie
- 20. Tom Kelly

**Restricting Flavored Tobacco**

- 21. Amanda Gutzwiller, on behalf of the American Lung Association

**Supplemental Communications and Reports 1**

**Item #17: Proposed Location for the Apothecarium Cannabis Retailer**

- 22. Sonia Clerc
- 23. Pat Thomas
- 24. Valenta de Regil
- 25. David Slusser
- 26. Anthony Bonet
- 27. Kevin Banis & Kellene Kaiser
- 28. Michael Wade

**Item #18: Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission**

- 29. Revised material, submitted by Councilmember Harrison
- 30. Cecile Pineda

**Item #21: Missing Middle Report**

- 31. Revised material, submitted by Councilmember Droste
- 32. Alfred Twu
- 33. Bryce Nesbitt

**Supplemental Communications and Reports 2**

**Item #17: Proposed Location for the Apothecarium Cannabis Retailer**

- 34. Communications from the Cannabis Commission – January 10, 2019
- 35. Jennifer Larsh
- 36. Lynn Silver
- 37. Jason Baeten
- 38. John Katovich
- 39. Nina Margaret
- 40. Michael Colbruno
- 41. Chimney Lee

**Item #18: Adopt the Sanctuary Contracting Ordinance proposed by the Peace and Justice Commission**

- 42. Erica Etelson

**Item #21: Missing Middle Report**

- 43. Revised materials, submitted by Councilmember Droste
- 44. Libby Schaaf, Mayor, City of Oakland
- 45. Theo Posselt



46. Raphael Villagracia
47. Mark Green
48. Nawal Seedat
49. Dante Gonzales
50. Sarah Abdeshahian
51. Hayley Currier
52. Dorothy Walker
53. Avi Samelson
54. Jeff Hobson
55. Anirvan Chatterjee
56. Phyllis Orrick
57. Andrew Fox
58. Harvey Gould
59. Alex Novet
60. John Stuart
61. Charles Kahn
62. Matt Lardner
63. Joe Collett
64. Zach Franklin
65. David Trachtenberg
66. Liat Zavodivker
67. Marcia Freedman
68. Mark Humbert
69. Lynette Levy
70. Corey Smith
71. Mariana Almeida
72. Teresa Clarke, on behalf of South Berkeley NOW!
73. Mary Canavan
74. Tommaso Sciortino
75. Libby Lee-Egan
76. Karen Chapple, Professor, City and Regional Planning
77. 19 "In Support of" form letters

**Item #21: Missing Middle Report**

78. 290 Communications submitted via Berkeley Considers, Includes summary information.

**Supplemental Communications and Reports 3**

**Item #15: Ensuring the Sustainability of the Berkeley Flea Market**

79. Wakean Maclean
80. Robert Lin
81. Karen Carroll
82. Ory Sandel
83. Christopher Hudson
84. Janice Greenberg
85. S. Omowale Fowles

86. Laurel Sharp
87. Barbara McDonald
88. Allen Barth
89. Daniel Jurnove
90. Mark McDonald
91. Hali Hammer
92. Barry Fike
93. Andre Rivers
94. Paul Deuter
95. Christopher Smith, Berkeley Community Flea Market Vendors Association

**Item #17: Proposed Location for the Apothecarium Cannabis Retailer**

96. Presentation, submitted by Planning and Development Department
97. Meghan Jobson
98. Lisa Bullwinkel
99. JP Massar
100. Gayle Dominguez
101. Michael Lamperd
102. Bill Baird
103. Sean McPharlin
104. Nike van der Molen
105. Christopher Simmons
106. Kathy Stuart
107. Amy Honigman
108. Sophia Markoulakis
109. Liam Moran
110. Maile
111. Ken Hunter
112. Rod Mehrten
113. Chuck Everett
114. Ezra Malmuth
115. Linda Perrella
116. Jason Beaten
117. Kellylynn Johnson
118. Keith Arnold
119. Barbara Cohen
120. Matthew Woolley
121. Rena Rickles
122. Anna Harte, on behalf of the University of California Berkeley
123. Kriss Worthington
124. Martin O'Brien, on behalf of the Patient's Care Collective
125. Carol Christ, Chancellor of University of California at Berkeley
126. 53 "In Support of" form letters

**Item #21: Missing Middle Report**

127. Tor Berg
128. Todd Andrew
129. Janice Greenberg
130. Pamela Ormsby
131. Thomas Lord
132. Lin Druschel
133. Gail Craine
134. Adolfo Cabral
135. Aaron Stein-Chester
136. Elliot Halpern
137. Pepper Sbarbaro
138. Cora Johnson-Grau
139. Barbara Rydlander
140. George Porter
141. Gary McDole
142. Sarah Bancroft
143. Patrick Golier
144. Adrienne Aron
145. Michael O'Hare
146. Patrick Kennedy
147. Danny Wedding
148. Howard Cohen
149. Kent
150. Barbara Wenger
151. Jeannie Battagin
152. Patrick Sheahan
153. Chris Gilbert
154. Karen Harrington
155. John Taylor
156. Donald Goldmacher
157. Sandra Bernard
158. Chris Reed
159. Denise Pinkston
160. Erica Etelson
161. Mary Luersen
162. Gertrude Allen
163. Julie Snyder
164. Rita Elegant
165. Candace Hyde-Wang
166. Alexander Benn
167. Bruce Brody
168. Eric Panzer, on behalf of Assembly member Buffy Wicks
169. Juliet Lamont
170. Heather Gilbert
171. Sanjani Varkey

172. Todd Jersey
173. Cindy Leung
174. Zelda Bronstein
175. Danie Caraco
176. Bob Flasher
177. Fred Dodsworth (2)
178. David de Souza
179. Tanir Ami
180. Claire Schoen
181. Chris Paciorek
182. F.W. Sparrow
183. Gary Facente
184. Shirley Dean
185. Ty Alper
186. Richard Eastman
187. Polly Quick
188. Kate Harper
189. Aaron Foxworthy
190. Mary Rose
191. Carlota Babilon
192. Robin Millstein
193. Barryett Enge
194. Amanda Prasuhn
195. Remi Omodele
196. Sandy Simon
197. Bruce Bagnell
198. William Lopez
199. Alan Louwerse
200. Stan Lusardi
201. Alyse Jacobson
202. Vincent Casalaina
203. Gloria Child
204. Irene Rosenthal
205. Petra Liljestränd
206. Margaret Goodman
207. David Ying
208. Nina Torcoletti
209. Laura Klein
210. Dawn Howard
211. Chris Chase
212. Vivian Warkentin
213. Mischa Lorraine & Jerry Arriba
214. Martin & Olga Schwartz
215. John Gilman
216. Willie Pettus
217. Maggie Parks

218. Les Shipnuck
219. Kelly Hammargren
220. Nabih Tahan
221. Lynn Sherrell
222. Valerie Knepper
223. Brian Shillinglaw
224. Sarah Leverett
225. Amelia Cass
226. Donna Davis
227. Jessica Hovick
228. Aurora Arder
229. Ivan Diamond
230. Kathy Kahn
231. Charley Paffenbarger
232. Ted Edlin
233. Tony & Trish Hawthorne
234. Heather Gilbert
235. Liz Horowitz
236. Meryl Siegal
237. Joe Berry
238. David Ritvo
239. Norman Frank
240. Joan Bardez
241. Brian Barsky
242. Deanna Soe
243. David Kafton
244. Sandy Zirulnik
245. Ellen Hahn
246. Peter Ekstein
247. Dana Scott
248. David Fielder
249. Gail Craine
250. Deborah Trillia
251. Catherine Varnau
252. Candace Hyde-Wang
253. Ted Lobman
254. Stephen Cataldo
255. John Tozer
256. Margo Smith
257. Susan Pownall
258. Christopher Adams
259. J. Brod
260. Theo Posselt
261. Teresa Clarke, on behalf of South Berkeley NOW!

**Item #22: Retirement of Council Ad Hoc Subcommittees**

- 262. Kelly Hammargren
- 263. Patrick Sheahan

**Item #A: Referral Response: Supporting Worker Cooperatives**

- 264. Yassi Eskandari
- 265. North Berkeley Neighborhood Alliance
- 266. Network of Bay Area Worker Cooperatives

**MINUTES  
SPECIAL MEETING OF THE  
BERKELEY CITY COUNCIL**

**Thursday, February 28, 2019**

**6:00 P.M.**

SCHOOL DISTRICT BOARD ROOM - 1231 ADDISON STREET, BERKELEY, CA 94702

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI  
DISTRICT 2 – CHERYL DAVILA  
DISTRICT 3 – BEN BARTLETT  
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN  
DISTRICT 6 – SUSAN WENGRAF  
DISTRICT 7 – RIGEL ROBINSON  
DISTRICT 8 – LORI DROSTE

**Preliminary Matters**

**Roll Call:** 6:09 p.m.

**Present:** Bartlett, Davila, Droste, Hahn, Harrison, Kesarwani, Robinson, Wengraf, Arreguin.

**Absent:** None.

**Action Calendar – New Business**

## Action Calendar – New Business

### 1. Referral Responses: Managing Recreational Vehicle (RV) Parking

**From: City Manager**

**Recommendation:** Review options provided by City staff in the report and take one of the following actions:

1. Refer the recommendations in Option A (in the staff report), amending existing codes to limit RVs parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system, to the City Manager.

**-AND/OR-**

2. Adopt the recommendations provided in Option B (in the staff report), prohibiting parking campers and RVs during certain hours and creating additional resources for people living in RVs, and adopt the first reading of two ordinances amending Berkeley Municipal Code (BMC) Chapter 12.76 and BMC Section 14.40.120 and refer any additional costs to the FY20-21 Budget process.

**Financial Implications:** See report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** 78 speakers. M/S/Failed (Davila/Harrison) to refer the item to the Health, Life Enrichment, Equity and Community Committee.

**Vote:** Ayes – Davila, Harrison; Noes – Kesarwani, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Abstain – Droste.

**Action:** M/S/Carried (Arreguin/Kesarwani) to:

- 1) Adopt first reading of Ordinance No. 7,643-N.S. (BMC Section 14.40.120) regarding stopping, standing or parking restricted or prohibited on certain streets. Second reading scheduled for March 26, 2019. The implementation of the ordinance will be preceded by efforts such as outreach efforts, noticing, flexible funding, and assisting individuals to get stable or rehoused.
- 2) Refer to the City Manager to amend existing codes to prohibit RV parking in the City of Berkeley for extended periods of time and developing an online RV Permitting system that limits the total amount of time any RV or registered owner of an RV parks their vehicle on the City's right-of-way or City-owned off-street parking lots in a calendar year. Permits under the new system should be distributed throughout the city.
- 3) Council will continue to work with staff to identify and develop a temporary RV site that serves highly vulnerable populations, including families with young children attending Berkeley schools, as well as a regional long-term non-profit RV site.
- 4) Refer to the City manager to consider a program to allow private entities to have RVs on their property for overnight camping, with an emphasis on persons utilizing the coordinated entry system.

**Vote:** Ayes – Kesarwani, Bartlett, Hahn, Wengraf, Droste, Arreguin; Noes – Davila, Harrison, Robinson.

Recess 9:11 p.m. – 9:30 p.m.



## Action Calendar – New Business

### 2. Clean and Livable Commons Initiative

**From:** City Manager

**Recommendation:** Provide guidance on actions the City Manager should take to enhance livability in Berkeley.

**Financial Implications:** See report

Contact: Paul Buddenhagen, City Manager's Office, 981-7000

**Action:** 13 speakers. M/S/C (Arreguin/Kesarwani) to provide direction to the City Manager to pursue the following items:

1. Add lighting, cameras and signs at strategic locations in Berkeley to help deter illegal dumping.
2. Create a Livable Commons Action Team, made up of new staff in the Public Works, Parks, HHCS and City Manager's office to increase the City's ability to quickly address debris and other negative impacts related to homeless encampments.
3. Add portable toilets and a second homeless locker program near encampments.
4. Create a citizen awareness campaign to publicize these efforts and educate the public regarding illegal dumping and the best practices or ways to provide donations to homeless encampments.
5. Explore increasing the penalties for illegal dumping.
6. Refer to the City Manager and the budget process to expand the streets clean up employment program.
7. Explore short-term pump-out options.

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain - None; Absent – Harrison.

Councilmember Harrison absent 9:30 p.m. – 10:33 p.m.

## Adjournment

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

**Vote:** Ayes – Kesarwani, Davila, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain - None; Absent – Harrison.

Adjourned at 10:33 p.m.

This is to certify that the foregoing is a true and correct record of the special meeting of February 28, 2019 as approved by the Berkeley City Council.

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Mark Numainville, City Clerk

## Communications

### Item #1: Referral Responses: Managing Recreational Vehicle (RV) Parking

1. Eric Friedman

## Supplemental Communications and Reports 1

- None

## Supplemental Communications and Reports 2

### Item #1: Referral Responses: Managing Recreational Vehicle (RV) Parking

2. Andrea Segall
3. Laurie Nardinelli
4. Scott Huffman
5. John Niles
6. Kim Nemirow
7. Iris Starr
8. Eugene Bolotin
9. M. Kandarian
10. Tani Macdonald
11. Eva Herzer
12. Meryl Siegal
13. Carly Ebenstein and Steve LaMond
14. Jim Harleen
15. William Tomaszewski (4)
16. Sheila Goldmacher
17. Onica Kuch

## Supplemental Communications and Reports 3

### Item #1: Referral Responses: Managing Recreational Vehicle (RV) Parking

18. Interfaith Council of Alameda County, submitted by Councilmember Davila
19. Presentation, submitted by the City Manager's Office
20. Steven Donaldson, on behalf of 50+ Business' in the West Berkeley area
21. Jessica Jennings
22. Clark Sullivan
23. Shaun Barraca
24. Julie Ann Schaul (4)
25. Isis Feral
26. Jan Austerlitz
27. David Pope
28. Lisa Camasi
29. Alfred Twu
30. Jodi Ravel
31. Beth Rockmill
32. Diana Bohn
33. Amin Torabi
34. Erik Holland
35. Elizabeth Martin
36. Adam Rogers
37. Stephanie Thomas
38. Christine Mitchell
39. David Arkin on behalf of Sharon Lee, Executive Director of Low Income Housing Institute



Office of the City Manager

**03**

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
 From: Dee Williams-Ridley, City Manager  
 Submitted by: Henry Oyekanmi, Director, Finance  
 Subject: Formal Bid Solicitations and Request for Proposals Scheduled for Possible Issuance After Council Approval on March 26, 2019

RECOMMENDATION

Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager’s threshold will be returned to Council for final approval.

FISCAL IMPACTS OF RECOMMENDATION

Total estimated cost of items included in this report is \$325,000.

| <u>PROJECT</u>                        | <u>Fund</u> | <u>Source</u>     | <u>Amount</u>    |
|---------------------------------------|-------------|-------------------|------------------|
| Finger Dock Installation and Disposal | 608         | Marina Operations | \$125,000        |
| As-Needed Tree Services               | 138         | Parks Tax         | \$200,000        |
| <b>Total:</b>                         |             |                   | <b>\$325,000</b> |

CURRENT SITUATION AND ITS EFFECTS

On May, 6, 2008, Council adopted Ordinance No. 7,035-N.S. effective June 6, 2008, which increased the City Manager’s purchasing authority for services to \$50,000. As a result, this required report submitted by the City Manager to Council is now for those purchases in excess of \$100,000 for goods; and \$200,000 for playgrounds and construction; and \$50,000 for services. If Council does not object to these items being sent out for bid or proposal within one week of them appearing on the agenda, and upon final notice to proceed from the requesting department, the IFB or RFP may be released to the public and notices sent to the potential bidder/respondent list.

Formal Bid Solicitations and Request for Proposals  
Scheduled for Possible Issuance After Council  
Approval on March 26, 2019

CONSENT CALENDAR  
March 26, 2019

BACKGROUND

On May 6, 2008, Council adopted Ordinance No. 7,035-N.S., amending the City Manager's purchasing authority for services.

ENVIRONMENTAL SUSTAINABILITY

The Finance Department reviews all formal bid and proposal solicitations to ensure that they include provisions for compliance with the City's environmental policies. For each contract that is subject to City Council authorization, staff will address environmental sustainability considerations in the associated staff report to City Council.

CONTACT PERSON

Shari Hamilton, General Services Manager, Finance, 510-981-7329

Attachments:

- 1: Formal Bid Solicitations and Request for Proposals Scheduled For Possible Issuance After Council Approval on March 26, 2019
  - a) Finger Dock Installation and Disposal
  - b) As-Needed Tree Services

Note: Original of this attachment with live signature of authorizing personnel is on file in General Services.







Office of the City Manager

04

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services

Subject: Contract No.10438B Amendment: Ashby Village for Age-Friendly Berkeley Plan Production

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 10438B with Ashby Village to pay for the design and printing of a finalized City of Berkeley Age-Friendly Plan, in an amount not to exceed \$7,000 for a total contract amount not to exceed \$57,000. Contract term will remain unchanged, and will expire on August 31, 2019.

FISCAL IMPACTS OF RECOMMENDATION

Funds for the additional scope of work in the amount of \$7,000 is included in the FY 2019 General Fund budget for the Health, Housing, & Community Services Department. The Contract Management System number for this contract amendment is CMS No. TLZG1.

CURRENT SITUATION AND ITS EFFECTS

Ashby Village is a collaborative partner with the City of Berkeley in the Age-Friendly Berkeley joint community initiative, which also includes Lifelong Medical Care, and the Center for Independent Living. The goal of the initiative is to create a Berkeley community where older adults can stay and thrive as they age. Meeting the needs of our aging population will create a livable community for all residents. The development and finalization of an Age-Friendly plan is a deliverable of the initiative; the final plan includes recommended actions to achieve this goal.

Ashby Village assisted the City of Berkeley and community partners with surveys and forums that were conducted as part of gathering public input for Berkeley's Age Friendly Plan. Ashby Village also provided the City of Berkeley with a citywide integrated model that supports choices older adults make as they age.

BACKGROUND

The Berkeley Age Friendly Plan is a component of Age Friendly Berkeley initiative. Helping Berkeley's older adults remain in Berkeley and live long, healthy and fulfilled lives is the goal of the Age-Friendly Berkeley initiative.

In collaboration with Age-Friendly community partners, the City submitted an application that demonstrated Berkeley's commitment to older adults in order to become a member of the World Health Network. Through the City's dedicated services to older adults, its robust non-profit sector, and innovative planning, the City demonstrated Berkeley's commitment to the older adult community and was accepted into the World Health Network in November 2016. A requirement of this World Health Organization recognition was the completion of an Age Friendly Plan that outlines focus areas and goals that the City will address as part of working towards being an Age-Friendly City.

ENVIRONMENTAL SUSTAINABILITY

A limited number of copies of the Age Friendly plan were printed. The plan is also available electronically.

RATIONALE FOR RECOMMENDATION

City staff did not have the capacity to oversee the design and production of a finalized Age-Friendly Plan. Throughout the Age-Friendly planning process, Ashby Village has provided critical guidance and expertise in developing recommendations that align with the focus areas and goals outlined in the City's Age Friendly Plan. Ashby Village partnered with a design/print consultant who finalized the Plan.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Tanya Bustamante, Aging Services Manager, HHCS, 981-5178

Attachments:

1: Resolution



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

CONTRACT NO.10438B AMENDMENT: ASHBY VILLAGE FOR AGE-FRIENDLY  
BERKELEY PLAN PRODUCTION AND INITIAL IMPLEMENTATION

WHEREAS, Ashby Village has provided guidance and expertise on the development of the City of Berkeley's Age Friendly Plan; and

WHEREAS, Ashby Village is a critical community partner involved in critical planning activities under the Berkeley Age Friendly Initiative; and

WHEREAS, on September 1, 2016, the City entered into a contract with Ashby Village to provide research and planning activities aimed at developing a draft Age Friendly Plan; and

WHEREAS, City staff does not currently have the capacity to oversee design and production of a finalized City of Berkeley Age-Friendly Plan and Ashby Village has provided guidance and expertise in executing the planning activities in a reliable way; and

WHEREAS, funds for the additional scope of work in the amount of \$7,000 will be provided is included in the FY 2019 General Fund budget for the Health, Housing, & Community Services Department.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute an amendment to Contract No. 10438B with Ashby Village to produce a finalized City of Berkeley Age-Friendly Plan, and to conduct initial Age-Friendly plan implementation activities, in an amount not to exceed \$7,000 for a total contract amount not to exceed \$57,000 and the contract term will remain unchanged, and will expire on August 31, 2019.





Office of the City Manager

05

CONSENT CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks, Recreation, and Waterfront

Subject: Grant Application: the Surrendered and Abandoned Vessel Exchange (SAVE) grant program of the California Division of Boating & Waterways

RECOMMENDATION

Adopt a Resolution authorizing the City Manager or her designee to, 1. Apply for and accept a grant in the amount of \$130,000 from the California Division of Boating & Waterways (“DBW”) Surrendered and Abandoned Vessel Exchange (SAVE) grant program for the removal and disposal of approximately 26 abandoned vessels located at the Berkeley Marina; 2. Execute any amendments; and 3. Authorize a local match contribution of \$13,000.

FISCAL IMPACTS OF RECOMMENDATION

The cost to remove and dispose abandoned and derelict vessels at the Berkeley Marina is estimated at \$143,000. The Parks, Recreation, and Waterfront Department will request \$130,000 from DBW to remove derelict and abandoned vessels from the Berkeley Marina, and must provide a minimum 10% match, equivalent to \$13,000. These funds will be appropriated as part of the second amendment to the FY2019 annual appropriations ordinance in the Marina Fund, account code 608-52-544-592-0000-000-472-612990. If awarded, the grant will be deposited in the Marina Fund.

CURRENT SITUATION AND ITS EFFECTS

There are approximately 26 vessels at the Berkeley Marina that were either abandoned by their owners, or liened and retitled to the City in accordance with California statutes for non-payment of dockage fees. These vessels occupy slips in the Berkeley Marina that could otherwise be used to generate dockage revenue for the City. The vessels have little or no intrinsic value due to age and neglect. The DBW is currently accepting applications for grants to remove and dispose of derelict and abandoned vessels through its Surrendered and Abandoned Vessel Exchange (“SAVE”) program.

BACKGROUND

Responsibility for derelict and abandoned vessels, unfortunately, often falls on public agencies. For the past 20 years, the Division of Boating and Waterways has provided grant funding assistance to public agencies to properly remove, store, and dispose of abandoned, wrecked, or dismantled vessels or any other partially submerged objects that pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent. Over the past 20 years, the City of Berkeley has received several grants from DBW to successfully remove and dispose of derelict, abandoned, and sunken vessels from the Berkeley Marina.

ENVIRONMENTAL SUSTAINABILITY

Derelict, abandoned, and sunken vessels pose a navigational and environmental hazard to the waters of our City, and our state. Removal and proper disposal of these vessels contributes to the improvement of water quality of the waters of the Bay.

RATIONALE FOR RECOMMENDATION

The Parks, Recreation, and Waterfront Department has the primary responsibility for removing derelict and abandoned vessels from local waters. By applying for SAVE grants, the City is able to substantially leverage our funding for these projects, and safely remove potential environmental and navigational hazards from our waters.

CONTACT PERSON

Alexandra Endress, Waterfront Manager, 981-6737  
Stephen Bogner, Waterfront Supervisor, 981-6744

Attachments:

1. Resolution

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

GRANT APPLICATION: SURRENDERED AND ABANDONED VESSEL EXCHANGE  
(SAVE) GRANT PROGRAM OF THE STATE DIVISION OF BOATING AND  
WATERWAYS

WHEREAS, there are approximately 26 vessels at the Berkeley Marina that were either abandoned by their owners, or liened and retitled to the City in accordance with California Statutes for non-payment of dockage fees. The vessels currently occupy slips in the Berkeley Marina that could otherwise be used to generate dockage revenue for the City. The vessels have little or no intrinsic value due to age and neglect; and

WHEREAS, responsibility for abandoned vessels, unfortunately, often falls on public agencies. For the past 20 years, the Division of Boating and Waterways has provided grants to public agencies to remove, store, and dispose of abandoned, wrecked, or dismantled water vessels or any other partially submerged objects that pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent; and

WHEREAS, the Parks, Recreation and Waterfront Department has the primary responsibility for removing derelict and abandoned vessels from local waters. By applying for SAVE grants, the City is able to substantially leverage our funding for these projects, and safely remove potential environmental and navigational hazards from our waters; and

WHEREAS, the cost to remove and dispose of abandoned and derelict vessels at the Berkeley Marina is estimated at \$143,000. The Parks, Recreation and Waterfront Department will apply for \$130,000 from the DBW SAVE grant program to remove these vessels, and must provide a minimum match of 10% (equal to \$13,000). The Parks, Recreation & Waterfront Department has requested this appropriation be included in the second amendment to the FY2019 annual appropriations ordinance from the Marina Fund 608-52-544-592-0000-000-472-612990. If awarded, the grant will be deposited in the Marina Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager or her designee is authorized to 1) submit a grant application to the California Division of Boating and Waterways 2019 SAVE grant program for \$130,000; 2) accept any grants; 3) execute any resulting grant agreements and any amendments; and the City Council authorizes the implementation of the projects and appropriation of funding for related expenses, including \$13,000 in local match from the Marina Fund, subject to securing the grant. A record signature copy of said agreements and any amendments to be on file in the Office of the City Clerk.





Office of the City Manager

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Ridley-Williams, City Manager  
Submitted by: Phil Harrington, Director, Public Works  
Subject: Contracts: Fehr & Peers and Parisi Associates for On-Call Traffic Engineering Services

RECOMMENDATION

Adopt Resolutions authorizing the City Manager to execute two contracts and any amendments with Fehr & Peers and Parisi Associates for on-call traffic engineering services in an amount not to exceed \$1,000,000 each for a combined total not to exceed amount of \$2,000,000 from April 11, 2019 to June 31, 2022 with two 1-year options to extend.

FISCAL IMPACTS OF RECOMMENDATION

Funding for these on-call contracts will be identified and expended only for actual traffic engineering services required. Therefore, funding will be subject to appropriation in the specific fiscal year (covered in the contract term) that the services are needed. Some of the funding sources that are available for use are the Capital Improvement Fund (Fund 501), State Transportation Tax Fund (Fund 127), and Measure BB Local Streets and Road Fund (Fund 134).

This contract for Fehr & Peers has been assigned CMS No. JUWD5. The contract for Parisi Associates has been assigned CMS No. NNZA3

CURRENT SITUATION AND ITS EFFECTS

A Request for Proposals (Specification No. 19-11289-C) was issued on January 8, 2019 and included a wide range of tasks the consultant could potentially be asked to undertake, depending upon the needs and priorities facing Traffic Engineering. Proposals were received from seven consultants: DKS Associates, Fehr & Peers, Kittelson, Parisi, TJKM, T. Kears, and W-Trans. Staff reviewed the proposals to determine the firms' respective strengths, and selected Fehr & Peers, and Parisi Associates to perform traffic engineering work valued up to \$1,000,000 each.

BACKGROUND

The City has hired outside traffic engineering consultants since 1999 to assist staff in handling the division's workload. Traffic engineering consultants augment the services of permanent staff especially in meeting critical deadlines. The need to provide quick and detailed reviews of special local/regional projects has resulted in project delivery issues for the Traffic Engineering Division, especially where tight deadlines need to be met or special expertise is required. Typical examples of this type of assignment are planning, design, and construction management of Milvia Bikeway Project, Safe Routes to School grants projects, preparation of traffic calming plans, including physical design modifications, signage plans and markings; and fast track review of utilities traffic plans for emergency repair and construction.

ENVIRONMENTAL SUSTAINABILITY

Selection of this consultant is consistent with the City's efforts to improve efficiency of movement of people and vehicles throughout the City's roadway network. For example, any traffic signal improvement project that is implemented as a result of this work is expected to have a positive effect on traffic flow including bicycles and pedestrians, and contribute to the reduction of greenhouse gases and pollutants that impact air quality.

RATIONALE FOR RECOMMENDATION

Hourly rates, estimated cost per task, minimum response times, and experience with municipal agencies were among the factors considered during the selection process. While the hourly rates vary from task to task, depending on the required skill set and the level of staff used, the experience, proven responsiveness, on-time delivery and rates provided by Fehr & Peers, and Parisi Associates were the most competitive overall. In addition to the positive experience the City has had with Fehr & Peers, and Parisi Associates on previous contracts, all references contacted for Fehr & Peers, and Parisi Associates provided very positive feedback on the quality of their work.

ALTERNATIVE ACTIONS CONSIDERED

The only alternative would be to postpone indefinitely the execution of certain assignments.

CONTACT PERSON

Farid Javandel, Transportation Manager, Public Works, 981-7061  
Hamid Mostowfi, Supervising Traffic Engineer, Public Works, 981-6403

Attachments:  
1: Resolutions



RESOLUTION NO. - N.S.

CONTRACT: FEHR & PEERS FOR ON-CALL TRAFFIC ENGINEERING SERVICES

WHEREAS, outside traffic engineering consultants are needed to augment the services of permanent staff where tight deadlines are at issue or special expertise is required, and the City has hired consultants since 1999 to assist staff in handling heavy workloads; and

WHEREAS, a request for proposals was issued, and Fehr & Peers, was deemed to be one of the two most competitive of the seven responding firms, and was selected on the basis of their pricing, their experience with municipal agencies, expertise, proven on-time and high quality delivery, and the positive feedback received from their references; and

WHEREAS, funding is subject to appropriation in the FY 2020 and future fiscal year budgets in various Funds; and the contract has been entered into the City contract database, and assigned CMS No. JUWD5; and

WHEREAS, contract services are intended to provide capacity for cost-effective and speedy response to unprogrammed and time-sensitive tasks that may arise over time; and as these situations occur, responsible departments will ensure allocation of funding from appropriate Funds to cover the cost of providing traffic engineering services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Fehr & Peers for an amount not to exceed \$1,000,000 from April 11, 2019 to June 31, 2022 with two 1-year options to extend. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.

March 26, 2019

RESOLUTION NO. - N.S.

CONTRACT: PARISI ASSOCIATES FOR ON-CALL TRAFFIC ENGINEERING SERVICES

WHEREAS, outside traffic engineering consultants are needed to augment the services of permanent staff where tight deadlines are at issue or special expertise is required, and the City has hired consultants since 1999 to assist staff in handling heavy workloads; and

WHEREAS, a request for proposals was issued, and Parisi Associates was deemed to be one of the two most competitive of the seven responding firms, and was selected on the basis of their pricing, their experience with municipal agencies, expertise, proven on-time and high quality delivery, and the positive feedback received from their references; and

WHEREAS, funding is subject to appropriation in the FY 2020 and future fiscal year budgets in various Funds; and the contract has been entered into the City contract database, and assigned CMS No. NNZA3; and

WHEREAS, contract services are intended to provide capacity for cost-effective and speedy response to unprogrammed and time-sensitive tasks that may arise over time; and as these situations occur, responsible departments will ensure allocation of funding from appropriate Funds to cover the cost of providing traffic engineering services.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with Parisi Associates for an amount not to exceed \$1,000,000 from April 11, 2019 to June 31, 2022 with two 1-year options to extend. A record signature copy of said contract and any amendments to be on file in the Office of the City Clerk.



Office of the City Manager

**07**CONSENT CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Adopt a Resolution of Intent to Consider a FlixBus Franchise Agreement for Long-Distance Bus Service

RECOMMENDATION

Pursuant to Berkeley Municipal Code Chapter 9.60, adopt a Resolution declaring the Council's intention to consider at a public hearing, set for April 30, 2019, at 6:00 p.m., whether to grant a franchise to FlixBus, Inc. to provide long-distance bus service to the Berkeley public.

FISCAL IMPACTS OF RECOMMENDATION

The current proposal is for the FlixBus stop to be located on the University of California, Berkeley (UC Berkeley) campus on the West Crescent, east of Oxford Street between Center and Addison Streets. The fees associated with the Franchise Agreement are proposed to be structured as follows:

- With the FlixBus stop located on the UC Berkeley campus, as currently proposed, the franchise fee would consist of a roadway usage fee of \$0.10 per trip, for an annual total of \$169 to be deposited in the General Fund (Fund 011). This is in addition to the diesel fuel tax collected by the State, part of which is returned to the cities for roadway maintenance.
- If FlixBus instead were to locate its stop within City right-of-way, a bus-stop maintenance fee of \$400 would be added to the roadway usage fee, for an annual total of \$569. The maintenance fee would be deposited in the General Fund (Fund 011).
- If the FlixBus stop were to be located in the City right-of-way where there are currently metered parking spaces, FlixBus would also pay the parking meter rate for the total annual dwell time of the buses. This amount is estimated to be \$986 for the first year, for a total annual fee of \$1,555 (\$169+\$400+\$986). The parking meter fee would be deposited into the Parking Meter Fund (Fund 631).

In addition to the above-listed fees, FlixBus would need to separately pay a permit application fee, to reimburse staff time for reviewing the application, before being issued

a permit for any bus stop proposed to be located within City right-of-way. As mentioned above, the current proposal is for the FlixBus stop to be located on the UC Berkeley campus.

#### CURRENT SITUATION AND ITS EFFECTS

There is no direct access to long distance (intercity or interstate) bus service in Berkeley. Current operators (Greyhound, Megabus, Hoang Express) have their stops in Oakland, the closest of which is the Greyhound bus terminal on San Pablo Avenue at 21<sup>st</sup> Street. The only Berkeley access to long-distance public transportation is the train station on Second Street, which is served by Amtrak's Capitol Corridor line that runs between the Bay Area and Sacramento.

This lack of direct access to long-distance public transportation is surprising given that Berkeley is home to the UC Berkeley campus, which attracts a substantial number of out-of-town students. UC Berkeley in particular has a high concentration of students and individuals who originate from California's central and southern areas.

FlixBus is a long-distance bus company proposing routes that will connect Berkeley to Southern California and Salt Lake City, Utah, with points in between. The company has obtained approval from the California Public Utilities Commission (CPUC) to provide intercity bus service and is already operating at a bus stop in San Francisco. They have worked with UC Berkeley staff to locate a stop on campus adjacent to Crescent Lawn, situated between University Avenue and Center Street east of Oxford Street. They plan to start serving Berkeley in spring 2019.

The City Attorney determined upon a review of the City's Charter that FlixBus must obtain a franchise agreement before operating transportation services on public streets.

#### BACKGROUND

Council directed the City Manager to initiate a franchise agreement with FlixBus on October 30, 2018. FlixBus contacted staff in late 2017 regarding their desire to provide service in the City and worked with Council, as directed by the Berkeley Municipal Code Chapter 9.60, to get the initiation of a franchise agreement referred by Council to the City Manager.

The City's General Plan contains several policies and actions to support the expansion of public transportation. Entering into a franchise agreement to allow FlixBus service in Berkeley is consistent with "Policy T-2: Public Transportation Improvements: Encourage regional and local efforts to maintain and enhance public transportation services."

FlixBus originated in Europe in 2013 and is currently providing international long-distance bus service between twenty-eight (28) European countries. The company received California Public Utilities Commission (CPUC) approval on June 12, 2018 for operating intrastate long-distance bus service and has begun operations in California, Nevada, and Arizona.

FlixBus is responsible for network planning, customer service, quality management, marketing and sales, ticketing, pricing, and business development. The company employs existing regional bus operators for the day-to-day transporting of passengers. All buses are equipped with Wi-Fi and power outlets and allow bicycles on-board as luggage. Fare prices are dynamic. As an example, one-way fares from the Bay Area (San Francisco or Oakland) to Los Angeles range from \$4.99 to \$54.99, depending on date and time of travel.

ENVIRONMENTAL SUSTAINABILITY

FlixBus will provide long-distance bus service to visitors and residents of Berkeley and will integrate into the existing transportation network. Buses are one of the most efficient methods of transportation. At a conservative estimate of 5 mpg, a bus carrying half of its capacity, 27 passengers, has an effective fuel economy of 135 passenger miles per gallon, dwarfing that of even the most efficient hybrid personal vehicles which average 45 miles per gallon. Furthermore, buses reduce the number of vehicles on the road, and thus reduce congestion. FlixBus is proposing and promoting carbon-dioxide offsets as an option with ticket purchase to every customer. The FlixBus service will help the City achieve the Berkeley Climate Action Plan greenhouse gas emission reduction targets of 33% below year 2000 levels by the year 2020, and 80% below year 2000 levels by 2050.

RATIONALE FOR RECOMMENDATION

FlixBus will address public demand for direct access to long-distance public transportation. The current proposal to locate the Berkeley bus stop on the western edge of the UC Berkeley campus places it in close proximity to the City's downtown, a transit-rich environment that provides direct and convenient access for Berkeley residents, visitors and the campus community.

ALTERNATIVE ACTIONS CONSIDERED

Council could opt to have language edited, added, or removed from the franchise agreement. Council could also reject the franchise agreement in totality, which would result in no direct access in Berkeley to this long-distance bus service.

CONTACT PERSON

Farid Javandel, Transportation Division Manager, Public Works, (510) 981-7061  
Beth Thomas, Principal Planner, Public Works, (510) 981-7068

Attachments:

- 1: Resolution
- 2: Flix Bus Route Maps

RESOLUTION NO. –N.S.

SETTING A PUBLIC HEARING DATE TO CONSIDER GRANTING A FRANCHISE TO FLIXBUS, INC.

WHEREAS, the City of Berkeley currently has no direct access to long-distance (interregional or interstate) bus service; and

WHEREAS, FlixBus, Inc. (FlixBus) originated in Europe in 2013 and is currently providing international long-distance bus service between twenty-eight (28) European countries; and

WHEREAS, FlixBus received California Public Utilities Commission (CPUC) approval on June 12, 2018, for operating intrastate long-distance bus service and has begun operations in California, Nevada, and Arizona; and

WHEREAS, FlixBus has proposed to provide long-distance bus service to Berkeley residents by way of locating a bus stop within the City; and

WHEREAS, the City entering into a franchise agreement to allow FlixBus service in Berkeley is consistent with City General Plan Policy T-2: “Public Transportation Improvements: Encourage regional and local efforts to maintain and enhance public transportation services”; and

WHEREAS, FlixBus, in coordination with staff of the University of California, Berkeley (UC Berkeley), has identified a location for a bus stop on the UC Berkeley campus and has developed a fee schedule and a list of deliverables for FlixBus to operate at the stop; and

WHEREAS, the Council of the City of Berkeley approved on October 30, 2018, a referral to staff to initiate a franchise agreement with FlixBus for the provision of long-distance bus service to the City; and

WHEREAS, City staff has worked with FlixBus to develop a draft Franchise Agreement and fee structure to authorize FlixBus to provide long-distance bus service to the public in the City, subject to the issuance by the City of permits for any bus stop locations in City right-of-way prior to installation; and

WHEREAS, with the FlixBus stop located on the UC Berkeley campus, the franchise fee would consist of a roadway usage fee of \$0.10 per trip, for an annual total of \$169 to be deposited in the General Fund (Fund 011); and

WHEREAS, if the FlixBus stop were to be located within City right-of-way, a bus-stop maintenance fee of \$400 would be added to the roadway usage fee, for an annual total of \$569 to be deposited in the General Fund (Fund 011); and

WHEREAS, if the FlixBus stop were to be located in the City right-of-way where there are currently metered parking spaces, FlixBus would also pay the parking meter rate for the total annual dwell time of the buses, estimated to be \$986 for the first year, for a total annual fee of \$1,555 (\$169+\$400+\$986) to be deposited into the Parking Meter Fund (Fund 631).

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that, pursuant to Article XII, Section 76 of the Charter and Berkeley Municipal Code Chapter 9.60, it is the Council's intention to consider the application from FlixBus, Inc. for a franchise to operate long-distance bus service in Berkeley;

BE IT FURTHER RESOLVED that a public hearing shall be held before the City Council at 6:00 p.m. on the 30<sup>th</sup> day of April 2019 in the Berkeley Unified School District Board Room, 1231 Addison Street, Berkeley California. Following the hearing, the Council will consider the award of a franchise to FlixBus, Inc.;

BE IT FURTHER RESOLVED by the Council of the City of Berkeley that the City Clerk is directed to publish said notice in the official newspaper at least once within ten days after the passage of this resolution and make available copies of the proposed franchise in the office of the City Clerk.

Route 2001



Berkeley is part of our main 2001 line. It connects Sacramento, the Bay Area, and Los Angeles.

FlixBus has implemented a multi-stop strategy in the Bay Area and Los Angeles, allowing customers to enjoy more convenient pick-up and drop-off locations for their intercity journeys.



Route N2007



The N2007 is an overnight bus, connecting wine country with the east Bay Area, Los Angeles and San Diego.

FlixBus will employ a multistop strategy in LA and San Diego, allowing for more direct and convenient trips for passengers. This line passes through Anaheim, creating a connection to the Disneyland parks and resorts.

Route N2301



The N2301 is an overnight bus, connecting the Bay Area with Nevada and Salt Lake City.



Office of the City Manager

08

CONSENT CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Phillip L. Harrington, Director, Department of Public Works

Subject: Contract No. 8884C Amendment - St. Vincent de Paul for Mattress Recycling

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to execute an amendment to Contract No. 8884C with St. Vincent de Paul to accept mattresses collected from community members for refurbishing and recycling at the City's Solid Waste Management and Transfer Station. This amendment will increase the Contract \$50,000 for a new total contract amount not to exceed \$456,000 to fund services through contract expiration June 30, 2019.

FISCAL IMPACTS OF RECOMMENDATION

Funds in the amount of \$50,000 are available in the FY 2019 Zero Waste Division budget expenditure code 601-54-627-734-3023-000-472-612990. This Contract amendment has been entered into the City-wide contracts database and assigned Contract Management System No. FNDW1.

CURRENT SITUATION AND ITS EFFECTS

The current contract with St. Vincent de Paul (St. Vincent) expires June 30, 2019. As of January 1, 2019 the cost to the City's Solid Waste Management and Transfer Station (Transfer Station) for each mattress or box spring accepted by St. Vincent's Oakland facility increased from \$8.00 to \$10.00. The Transfer Station currently recycles an estimated 8300 mattresses per year.

BACKGROUND

St. Vincent has provided mattress/box spring recycling services to the City of Berkeley for over fifteen years, and now has a current average throughput of 692 units per month. At the Transfer Station, Zero Waste Division staff load mattresses/box springs into a walking floor trailer, and those materials are then transported weekly to the St. Vincent's facility for recycling.

ENVIRONMENTAL SUSTAINABILITY

Mattresses and box springs are difficult-to-recycle items, and specialized off-site processing is required to separate their individual material components for recycling. The Transfer Station accepts an average of 692 units for recycling each month, which

are diverted from landfills. This diversion is in keeping with the goals of the City's 2009 Climate Action Plan.

RATIONALE FOR RECOMMENDATION

Mattress recycling is an essential part of achieving the City's zero waste goal. It allows diversion of significant volumes of waste and recyclable materials from landfills. St. Vincent is one of the few facilities in the Bay Area that performs mattress recycling, and has adequately provided this service for the City of Berkeley for the past fifteen years.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Greg Apa, Solid Waste and Recycling Manager (510) 981-6359  
Heidi Obermeit, Recycling Program Manager (510) 981-6357

Attachments:  
1: Resolution

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

CONTRACT NO. 8884C AMENDMENT: ST. VINCENT DE PAUL MATTRESS  
RECYCLING

WHEREAS, the City receives approximately 8300 mattresses and box springs at the Solid Waste Management and Transfer Station each year; and

WHEREAS, in 2011 the City conducted a competitive bid process for mattress refurbishing, recycling and transportation services, and determined St. Vincent de Paul offered the lowest overall contract price and met all other contract requirements; and

WHEREAS, in December 2011 by Resolution No. 65,539-N.S., City Council authorized Contract No. 8884 with St. Vincent de Paul for hauling, refurbishing and recycling mattresses and box springs in an amount not to exceed \$180,000 for the period January 1, 2012 to December 31, 2014, with an option for two one-year extensions; and

WHEREAS, in December 2014 by Resolution No. 66,891-N.S., Contract No. 8884A with St. Vincent de Paul was amended to increase the contract amount \$101,000 for a total contract amount not to exceed \$281,000, and to extend the contract term to December 31, 2015; and

WHEREAS, in December 2015 by Resolution No. 67,316-N.S., Contract No. 8884B with St. Vincent de Paul was amended to increase the contract amount by \$75,000 for a total contract amount not to exceed \$356,000, and to extend the contract term to December 31, 2016

WHEREAS, in December 2017 by Resolution No. 68,260-N.S., Contract No. 8884C with St. Vincent de Paul was amended to increase the contract amount by \$50,000 for a total contract amount not to exceed \$406,000, and to extend the contract term to June 30, 2018; and

WHEREAS, in December 2018 the City Manager authorized an extension by letter through June 30, 2019; and

WHEREAS, the Solid Waste Management and Transfer Station's diversion of mattresses from area landfills helps the City meet its waste diversion goals; and

WHEREAS, funding for this contract amendment is available in the FY 2019 Zero Waste Division Fund 601, and the contract amendment has been entered into the Citywide contracts database and assigned Contract Management System No. FNDW1.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the

March 26, 2019

City Manager is authorized to execute an amendment to Contract No. 8884C with St. Vincent de Paul for refurbishing and recycling mattresses collected at the City of Berkeley's Solid Waste Management and Transfer Station to increase the contract amount by \$50,000 for a total contract amount not to exceed \$456,000. A record signature copy of said amendment will be on file in the Office of the City Clerk.



Mental Health Commission

09

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Mental Health Commission  
Submitted by: boona cheema, Mental Health Commission Chair  
Subject: Re-appointment of Paul Kealoha-Blake to the Mental Health Commission

RECOMMENDATION

Adopt a resolution for the re-appointment of Paul Kealoha-Blake to the Mental Health Commission, as a representative of the General Public Interest category, to complete his third term ending March 21, 2021.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

The Mental Health Commission is authorized to be composed of thirteen members. However, there are presently six vacancies on the Commission. These vacancies impair the Commission's ability to adequately review and evaluate the community's mental health needs, resources, and programs.

Approval of the recommended action will prevent another vacancy from occurring on the Mental Health Commission, allowing the Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

BACKGROUND

California State law requires that appointments to the Mental Health Commission meet specific categories, who may serve up to nine years consecutively. The general public interest category may include anyone who has an interest in and some knowledge of mental health services. The special public interest category includes direct consumers of public mental health services and family members of consumers, which together must constitute a little over half or seven of the commission seats. Direct consumers and family members shall each constitute at least 20% of the commission membership. Two members shall be residents of the City of Albany with at least one of these seats filled by a direct consumer or family member.

Mr. Kealoha-Blake has served on the Mental Health Commission since March 20, 2012. Since that time he has served as Chair multiple times and has been an active and conscientious member of the Commission. He was dropped from the Commission in

December after missing a meeting which resulted in him missing half of the meetings during the last six month period of 2018. There were a total of four meetings during this timeframe, and he had missed the September meeting as well. His third term will end on March 21, 2021.

The Mental Health Commission passed the following motion at the January 24, 2019 meeting:

**M/S/C (Posey, Davila) Move to re-nominate Paul Kealoha-Blake to the Mental Health Commission in a Berkeley General Public Interest Seat.**

**Ayes:** cheema, Davila, Fine, Heda, Posey **Noes:** None; **Abstentions:** None; **Absent:** Castro; Ludke.

ENVIRONMENTAL SUSTAINABILITY

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

RATIONALE FOR RECOMMENDATION

Approval of the recommended action will prevent a vacancy from occurring on the Mental Health Commission allowing the Commission to move one step closer to having a full and diverse complement of commissioners to review and evaluate the community's mental health needs, resources, and programs.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Karen Klatt, Commission Secretary, Health, Housing & Community Services, 981-7644

Attachments:

1: Resolution



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

RE-APPOINTMENT OF PAUL KEALOHA-BLAKE TO THE MENTAL HEALTH COMMISSION AS A REPRESENTATIVE OF THE GENERAL PUBLIC INTEREST

WHEREAS, Membership of the Mental Health Commission is composed of thirteen appointments by the City Council as a whole, including one appointment by the Mayor (*or designee*), six special public interest appointments, two appointments of residents of Albany (*one of which shall be a representative of the special public interest category*), and four general public interest appointments; and

WHEREAS, with the ongoing implementation of the Mental Health Services Act, the City of Berkeley will need to have a full complement of diverse appointees to the Commission to review and evaluate the community's mental health needs, resources, and programs and to fulfill its mandate; and

WHEREAS, Mr. Kealoha-Blake's third term on the Mental Health Commission will end on March 21, 2021; and

WHEREAS, the Mental Health Commission, at its January 24, 2019 meeting, recommended the re-appointment of Mr. Kealoha-Blake.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley re-appoints Paul Kealoha-Blake to the Mental Health Commission as a representative of the General Public Interest category, to complete his third term ending on March 21, 2021.





Parks and Waterfront Commission

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
 From: Parks and Waterfront Commission  
 Submitted by: Erin Diehm, Chair, Parks and Waterfront Commission  
 Subject: Transitioning cost of 4th of July Festival from the City's Marina Fund to the City's General Fund

#### RECOMMENDATION

Adopt a resolution referring to the City Manager to transition the cost of the annual 4<sup>th</sup> of July Festival from its current funding source, the City's Marina Enterprise Fund, to the City's General Fund.

#### BACKGROUND

The 4<sup>th</sup> of July Festival is a Berkeley tradition, in its 23<sup>rd</sup> year, attracting 60,000 visitors annually. It creates an ideal opportunity for residents to spend time out of doors to celebrate this national holiday in the company of their fellow diverse community members. It offers family-friendly alcohol-free activities in the daytime followed by a spectacular firework show in the evening. However, due to its reliance on the Marina Enterprise Fund for annual funding, the livelihood and longevity of the festival are at risk. The goal of this Resolution is to address existing concerns and find a workable long-term funding solution so that the Berkeley community may continue to enjoy this important national holiday event.

The City's Marina Enterprise Fund was set up decades ago in compliance with state requirements for lands held in The Public Trust and is separate from the City's General Fund. There are just two sources of revenue for the Marina Fund: berth rentals and leaseholds. The revenue is then expected to cover all expenses incurred at the marina, including routine operations, staffing, periodic capital improvements, and special events. Altogether, the special events cost the Marina Fund approximately \$725K per year, including \$525K for Adventure Playground and the Shorebird Nature Center, \$150K for the 4<sup>th</sup> of July Festival and \$50K for the Kite Festival.

The Marina Fund and the infrastructure it supports is facing a crisis. Unfortunately, a "sinking fund" to cover the cost of expected capital improvements was never established. The annual set aside should have been \$1-2M per year. Without a sinking fund in place, the marina's infrastructure -- docks, pilings, electrical systems, parking lots, and more -- has experienced decades of deferred maintenance and much of it has

reached its end of life. In an unfortunate turn of events, the dilapidated state of the infrastructure then encourages some slipholders to leave the marina, reducing revenue even further. It is a vicious cycle. Staff projects that the Marina Fund will reach insolvency in 2021.

Given the crisis facing the Enterprise Marina Fund, financial solutions (large and small, immediate and long-term) must be identified and pursued. One such solution is to remove the cost of the 4<sup>th</sup> of July Festival from the Marina Fund and transition it to the City's General Fund, a savings of approximately \$150K per year for marina operations.

The change would bring several benefits. First, most marinas don't pay for recreational events. Transitioning the cost will better align the fiscal responsibilities of Berkeley's marina with those of other cities. Second, transferring the cost does not require a years-long planning process and, it is hoped, could happen relatively quickly during the next budget cycle. The savings could then be used to help fund critical repairs at the marina. Third, and perhaps most important, transitioning the cost of the 4<sup>th</sup> of July Festival will ensure the longevity of this family-friendly beloved Berkeley tradition. It can continue to be held on July 4<sup>th</sup>, when community members are more likely to have a work holiday and thus are able to bring children to the daytime events, giving them the opportunity to enjoy fresh air and sunshine on this recognized national holiday.

#### FINANCIAL IMPLICATIONS

Staff time to review and incorporate the changes into next budget cycle. Annual allocation of \$150,000 from City's General Fund.

#### ENVIRONMENTAL SUSTAINABILITY

No negative impact and consistent with City standards.

#### CITY MANAGER

The City Manager recommends evenly splitting the 2019 4<sup>th</sup> of July event costs between the general fund and the Marina fund, and closely analyzing the revenues and expenditures to appropriately plan for future years.

The Marina Fund's structural deficit currently exceeds \$1 million per year, and is projected to exhaust all reserves in 2020, and would need approximately \$950,000 to maintain existing Waterfront operations through the next budget cycle. For further information, see the following Off Agenda Memos to Council: April 12, 2018 Marina Fund Update<sup>1</sup>; June 27, 2018 – Marina Memo (w Attachment)<sup>2</sup>; and December 13, 2018 – Marina Update<sup>3</sup>.

<sup>1</sup> April 12, 2018 – Marina Fund Update. URL: [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Marina%20Fund%20Update%20041218.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Marina%20Fund%20Update%20041218.pdf)

<sup>2</sup> June 27, 2018 – Marina Memo (w Attachment). URL: [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/COBmarina%20info%20with%20attachment.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/COBmarina%20info%20with%20attachment.pdf)

<sup>3</sup> December 13, 2018 – Marina Update. URL: [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_General/Marina%20Fund%20Update%20121318.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_General/Marina%20Fund%20Update%20121318.pdf)

CONTACT PERSON

Erin Diehm, Chairperson, Parks and Waterfront Commission, 510-666-0662

Attachments:

1. Resolution

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

TRANSITIONING COST OF ANNUAL 4th OF JULY FESTIVAL  
FROM THE CITY'S MARINA ENTERPRISE FUND TO THE CITY'S GENERAL FUND

WHEREAS, the Parks and Waterfront Commission reviews the policies, projects, programs, planning efforts, activities, funding and the physical condition of parks, pools, camps, recreation centers, the Marina, and public greenery, and advises the City Council on these matters; and

WHEREAS, the 4th of July Festival is a Berkeley tradition, in its 23rd year, attracting 60,000 visitors annually; and

WHEREAS, the 4th of July Festival creates an ideal opportunity for residents to spend time out of doors in the company of their fellow diverse community members; and

WHEREAS, the 4th of July Festival offers family-friendly alcohol-free daytime activities, including live music, arts and crafts booths, children's activities, food vendors, free boat rides with the Dragon Boat club, and access to Adventure Playground, followed by a spectacular evening fireworks show on the water; and

WHEREAS, the 4th of July Festival held at the Berkeley Marina benefits the larger Berkeley community, and is offered as a free-of-charge event; and

WHEREAS, the 4th of July celebration is funded by the City's Marina Enterprise Fund, and not the City's General Fund; and

WHEREAS, according to recent records, the Marina Fund's cost for sponsoring the event is approximately \$155,000, which covers traffic control, staffing, refuse, portable toilets, the fireworks display, and cleanup efforts; and

WHEREAS the Marina Enterprise Fund is facing an unprecedented financial crisis, with more than \$100M of unfunded capital need, an annual structural deficit of \$800K, and, perhaps most alarmingly, a projected insolvency in 2021.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby refers to the City Manager to use the City's General Fund to cover the cost of the majority of the 4th of July Festival, beginning in 2019 and continuing each year.

BE IT FURTHER RESOLVED that the Festival shall continue to be held at the Berkeley Marina on July 4th and continue to include a daytime festival and evening fireworks.



[Commission Name]

11

CONSENT CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Police Review Commission

Submitted by: George Perezvelez, Chairperson, Police Review Commission

Subject: Police Review Commission's co-sponsorship of a NACOLE Regional Training and Networking Event

RECOMMENDATION

Authorize the Police Review Commission to co-sponsor, with the National Association for Civilian Oversight of Law Enforcement (NACOLE) and the BART Office of the Independent Police Auditor, a regional training and networking event on May 3, 2019 in Oakland, California.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Staff of the Police Review Commission have been working with staff from NACOLE and the BART Independent Police Auditor's Office to plan a Bay Area regional training and networking event, set for May 3, 2019, in Oakland. (See *Save the Date* announcement, attached.) The Commissioners of the PRC request the City Council's permission for the Commission to be listed as a co-sponsor of this program. The PRC voted to make this request at its February 13, 2019 meeting as follows: M/S/C Perezvelez/Allamby; Ayes -- Allamby, Calavita, Matthews, Mikiten, Perezvelez, Prichett, Ramsey, Yampolsky; Noes -- None; Abstain -- None; Absent -- Roberts.

BACKGROUND

NACOLE's mission is to enhance fair and professional law enforcement that is responsive to community needs. It is the largest civilian oversight organization in the country, with a membership comprised of oversight practitioners, community stakeholders, law enforcement personnel, elected officials, journalists, academics, students, and others. Each fall, NACOLE holds an annual conference attended by the organization's members and others from across the nation.

Additionally, NACOLE holds a series of regional training and networking events throughout the year. The regional gatherings are designed to allow more opportunities for civilian overseers and interested stakeholders to meet and exchange information and ideas about issues of local law enforcement oversight.

The May 3, 2019 event is expected to draw oversight practitioners and interested community members from Berkeley, Oakland, San Francisco, San Jose, Richmond, Sonoma County, Sacramento, and beyond. Topics to be addressed are: civilian oversight of county jails, release of police personnel records under SB 1421, and the strengths and limitations of different oversight models.

ENVIRONMENTAL SUSTAINABILITY

No identifiable environmental effects or opportunities are associated with the subject of this report.

RATIONALE FOR RECOMMENDATION

In accordance with the Commissioners' Manual, Council approval is needed for a commission to co-sponsor an event.

ALTERNATIVE ACTIONS CONSIDERED

None.

CITY MANAGER

The City Manager concurs with the content and recommendations of the Commission's Report.

CONTACT PERSON

Katherine J. Lee, Police Review Commission Officer, Police Review Commission, 510-981-4960.

Attachments:

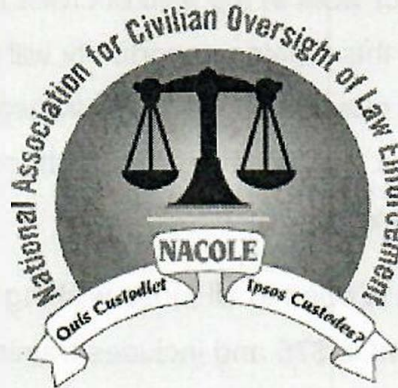
1: Save the Date announcement for May 3 NACOLE event.



Lee, Katherine

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**From:** NACOLE Director of Training & Education <mcellhiney@nacole.org>  
**Sent:** Wednesday, January 30, 2019 8:56 AM  
**To:** Lee, Katherine  
**Subject:** Save the Date for the Regional Meeting in the Bay Area



# SAVE THE DATE!

2019 NACOLE Regional Training & Networking Series

**May 3, 2019**

Kaiser Center

300 Lakeside Drive | Oakland, California

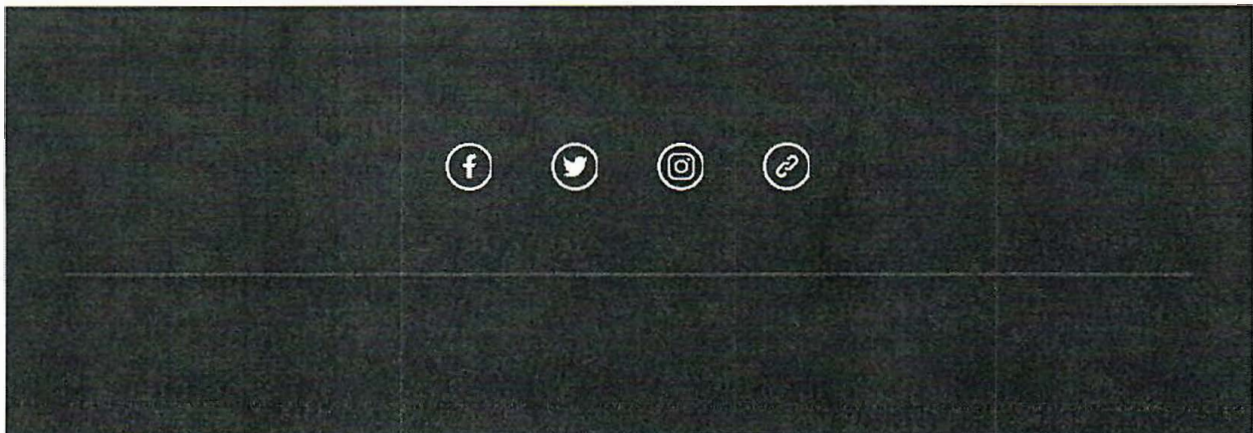
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In partnership with the BART Office of the Independent Police Auditor and the City of Berkeley, NACOLE is excited to announce that it will be holding one of the 2019 Regional Training and Networking events in the Bay Area. We hope that you will be able to join us in Oakland, California on May 3, 2019 at the Kaiser Center. **Registration and additional training information will be**

***available shortly. Please watch your inbox for additional details to be sent in the near future.***

This event is geared toward a variety of audiences, including but not limited to community members, oversight practitioners, justice system stakeholders, and academics. It will seek to address many issues important to those who support, are interested in, or work in the field of civilian oversight of law enforcement. In particular, this training opportunity will take on topics such as civilian oversight of county jails, California's new transparency laws, and information on the strengths and limitations of the different models of civilian oversight of law enforcement.

Please note that this event is open to all those wishing to attend. The registration fee for this event is \$75 and includes training, continental breakfast, and lunch. We anticipate offering Continuing Legal Education (CLE) credits, pending approval, for an additional \$25 fee. ***Please note that no one will be turned away from this event for lack of funds. Registration fees will be waived or a donation accepted for those who find that paying the full registration fee would prohibit their ability to attend and who are not seeking CLE credits.***





Office of the Mayor

**12**CONSENT CALENDAR

March 26, 2019

To: Members of the City Council

From: Mayor Jesse Arreguin and Councilmember Cheryl Davila

Subject: Budget Referral: \$30,000 to UC Theater Concert Career Pathways Education Program

RECOMMENDATION

Refer to the FY2020-2021 budget process the allocation of \$30,000 from excess unallocated General Fund revenues to the UC Theater Concert Career Pathways Education Program.

BACKGROUND

On December 5, 2017, with the adoption of the Mayor's Recommendations for the Allocation of Unassigned General Fund Excess Equity, the City Council allocated \$30,000 to The UC Theatre to support the Concert Career Pathways Education Program.

The Council did not make an allocation to this youth work force development and education program in 2018 and The UC Theatre has requested a grant of \$30,000 from the City of Berkeley to help fill a funding gap for this renowned program. The City's one-time grant will enable The UC Theatre to leverage the city's funding to secure donations and foundation funding which will increase the number of Berkeley youth served through this program.

The UC Theatre is an independent non-profit music venue with youth education programs operated by the Berkeley Music Group (BMG). The UC Theatre Concert Career Pathways Education Program (CCP) develops critical and creative thinking skills necessary to become successful in the workplace, offering youth passionate about music jobs an opportunity to develop a career in the field. CCP teaches young people ages 17 to 25 the technical, creative, and business aspects of concert and event promotion. This nine-month program provides a hands-on work-based learning model in combination with free workshops and paid internships. UC Theater offers these programs to youth attending local schools, underserved youth through partnerships with established non-profit community organizations, and to the public.

Concert Career Pathway Grads come from diverse backgrounds; 50% are young women, 70% are people of color, over half are from low-income households. 80% of program graduates have been successfully placed in jobs.

CCP is unique in that it connects one's love of music and arts with education and hard, technical skills in a lucrative industry. The Bay Area is home to a live concert and events industry that is currently experiencing growth. Potential jobs in the field offer competitive compensation: Production Managers can earn \$75,000 a year, and publicists, promoters, and marketing directors can earn upper five and six figures.

No other music venue in the nation focuses on educating youth, building skills, and paving career pathways in business, production, and promotion amongst arts venues like The UC Theatre. CCP combines workshops, hands on training, and paid internships that teach best practices in producing live concerts and events. The Concert Career Pathways Program has already achieved national recognition for its focus on creating job opportunities in the live music industry for low-income and youth of color.

CCP was intentionally designed with youth development leaders and industry professionals to support participants in addressing different barriers to entry in the job market. CCP supports participating youth to build skills applicable to the music industry and many other careers they may choose. Broad skills, such as budgeting, marketing, management, media and communications, are used in a variety of professions.

Partnerships with youth organizations ensure a strong support system for participants in developing soft skills necessary for success while also determining professional goals throughout the program. The UC Theatre Taube Family Music Hall and Berkeley Music Group partner with established youth organizations to recruit young people into the program, deliver ongoing support and training for participants, and provide feedback to continue program improvement. Partner non-profit organizations comprise the theatre's Educational Advisory Committee: Berkeley Youth Alternatives, RYSE (Richmond), Youth Uprising (East Oakland), Berkeley YMCA, PG&E Teen Center, East Bay Center for the Performing Arts (Richmond), Center for Independent Living (Berkeley), Berkeley Unified School District, and Berkeley Rep School of Theatre.

Funds from this one-time grant will fill a gap in funding and provide stipends for internships.

Going forward, The UC Theatre has submitted an application for community agency funding for the CCP as part of the four-year allocation process.

#### ENVIRONMENTAL SUSTAINABILITY

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

#### FINANCIAL IMPLICATIONS

\$30,000 from excess unallocated General Fund revenues. If this item is approved, the grant will be included in the Amendment to the Annual Appropriations Ordinance which Council will adopt in April.

CONTACT PERSON

Mayor Jesse Arreguin (510) 981-7100

Attachments:

1. February 25, 2019 Billboard Magazine article "*Berkeley's UC Theater Works to Diversify the Next Gen of Live Music Executives*"
2. Background on UC Theater and Concert Career Pathways Program

Links to Articles on Concert Career Pathways Program:

Billboard Magazine (2/15/2019)

<https://www.billboard.com/articles/business/8498640/berkeley-uc-theatre-david-mayeri-diversity-live-music-business>

East Bay Express (12/4/2018)

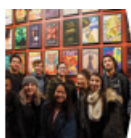
<https://www.eastbayexpress.com/oakland/the-uc-theatre-is-paving-the-way-toward-a-more-equitable-music-industry/Content?oid=23475852>

Forbes Magazine (11/27/18)

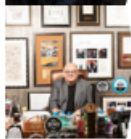
[Why UC Theatre's Robyn Bykofsky Believes Creative Leadership Starts With Listening](#)

Hypebot (11/26/2018)

[Diversifying The Music Industry - A Local Approach](#)



**BUSINESS 12:28 PM**  
Berkeley's UC Theatre Works to Diversify the Next Gen of Live Music Executives



**BUSINESS 2:10 PM**  
A-List Lawyer Joel Katz Talks James Brown, Negotiating for Jon Platt and Why Labels Are Adding Moral Clauses for Execs



**BUSINESS 1:58 PM**  
Lockn' Festival Announces 2019 Lineup with Trey Anastasio & Tedeschi Trucks Band Collaborations



**BUSINESS 11:38 AM**  
Executive Turntable: Moves at Warner/Chappell Music, Downtown, Tunedly



**BUSINESS 10:27 AM**  
The Feldman Agency Founder Sells Management Company to Two Top Executives



**BUSINESS 11:03 AM**  
Why 16-Year-Old Rapper NLE Choppa Turned Down a \$3 Million Record Deal to Partner With UnitedMasters: Exclusive



**BUSINESS 2/14/2019**  
With Jamaican Festival Bright Side, California Band Rebellion Aims To Bridge the Reggae Culture Gap



**BUSINESS 9:06 AM**  
Amazon's Exit Could Scare Off Tech Companies From NYC



**BUSINESS 2/14/2019**  
Universal Music Group 2018 Earnings: Revenue Tops \$7.1B as Streaming Spikes 31 Percent



**BUSINESS 2/14/2019**  
Will Allegations Actually Affect Ryan Adams' 2019 Tour and Album?



**BUSINESS 2/13/2019**  
Dave Grohl Explains Foo Fighters Cancellations and Why the Band Will (Probably) Never Break Up

# Berkeley's UC Theatre Works to Diversify the Next Gen of Live Music Executives

2/15/2019 by Dave Brooks



Rebekah Gonzales

Bykofsky (back row, third from right) surrounded by former and present members of UC Theatre's Concert Career Pathways program.

**David Mayeri** began his career in the music industry the same way many of his contemporaries did: He started young and knew the right people. It was 1970, and the legendary San Francisco-based promoter **Bill Graham** was starting to produce shows at an old theater inside Berkeley (Calif.) High School, which Mayeri attended. Mayeri worked as Graham's unpaid intern until he was offered a gig that paid \$10 for 16 hours of work unloading, staging and repacking touring shows.

Mayeri worked for Bill Graham Presents for 35 years, eventually rising to COO before he left in 2004. He then founded the nonprofit Berkeley Music Group to operate the UC Theatre, a 101-year-old movie theater, in November 2012 and spent three years restoring it as a music venue called UC Theatre Taub Family Music Hall. Mayeri was ready to staff the building in 2016 when he noticed a lack of diversity in the applications he received.

"There's a number of socioeconomic issues that can create barriers for individuals in live music," says Mayeri, including reliance on unpaid interns and low-paying entry-level jobs that make it impossible for candidates from low-income families to break in. "Many people in executive positions today came up through professional networks that are still very homogeneous and only reinforce the cultural barriers that young people face."

# Berkeley's UC Theatre Works to Diversify the Next Gen of Live Music Executives

February 15, 2019

By Dave Brooks

<https://www.billboard.com/articles/business/8498640/berkeley-uc-theatre-david-mayeri-diversity-live-music-business>



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"There's a number of socioeconomic issues that can create barriers for individuals in live music," says Mayeri, including reliance on unpaid interns and low-paying entry-level jobs that make it impossible for candidates from low-income families to break in. "Many people in executive positions today came up through professional networks that are still very homogeneous and only reinforce the cultural barriers that young people face."

Hoping to create opportunities for women and people of color, Mayeri brought on educator-activist Robyn Bykofsky to serve as education director. In 2016, they launched Concert Career Pathways, a free, nine-month program for students ages 17-25 that offers workshops and paid internships in the live sector. Applications for the 2019 edition open in March. "We wanted to help young people better understand what has been a very opaque industry," says Bykofsky. "We were looking beyond typical employment issues to understand how imbalances in access to opportunity were created."

In the program, students study production management and event planning by working with stagehands, floor staff and sound engineers. They also learn about lighting, visual design, budgeting, marketing and social media promotion as well as how to book talent.

"Our graduates come from diverse backgrounds," says Mayeri, adding that half the students in each program are female and 70 percent are people of color. Once the program's six workshops are complete, graduates participate in paid internships, working eight to 12 hours per week or 20-show cycles. "Several" graduates now work at the theater.

"We work to be a true collaborator with the diverse communities we serve," says Bykofsky. "I want to make sure we are providing them with the support they need to thrive."




  
**THE UC THEATRE**
  
**TAUBE FAMILY MUSIC HALL**

The UC Theatre Taube Family Music Hall is a local independent 1,400 capacity multi-tiered non-profit music venue operated by the Berkeley Music Group (BMG). Our mission is to present a vibrant and diverse range of live performances to advance the understanding and appreciation of music, culture and education in the east bay. We provide inclusive, diverse, and culturally rich music programming as well as youth education programs that are transforming lives. In 2018, Berkeley Music Group and The UC Theatre Taube Family Music Hall hosted 95 concerts and 25 private events.

The UC Theatre has created over 150 full and part-time jobs and hosted hundreds of events representing a wide variety of programming interests offered for the Bay Area community such as Green Day, the Banff Mountain Film Festival, Balkan Beat Box, Matisyahu, Bill Nye the Science Guy, Joe Jackson, Nicholas Jarr, Lord Huron, NOFX, Berkeley High School Jazz Ensemble, Tinariwen, Run the Jewels, Malatu Astatke, Toro y Moi, Dudu Tassa and the Kuwaitis, the Berkeley Community Fund Gala, Berkeley Art Museum Gala, the return of the Rocky Horror Picture Show, and the Golden Gate Symphony and Chorus.

In 2018, The UC Theatre continued to expand the diversity of our programming and experienced a 13% growth in number of shows we annually present. While offering diverse programming that brings in diverse audiences honors our mission we are learning that it has its challenges in terms of building a UC Theatre family. However, we remain committed to bringing events into the Berkeley Community that reflect the community at large in terms of diversity and representation and know that our continued commitment to do so will eventually help us build a loyal constituency. We know that the 125,000 people that we annually bring in for shows and events has positively impacted downtown Berkeley businesses, and we continue to work with several local nonprofits to support their fundraising efforts by offering discounted and free rentals.

The Speak Your Truth (SYT) Concert Series is a student run concert venue within theatre. We have reconfigured our space to be able to put on smaller events on our Tier 1 stage, such as our Speak Your Truth events managed by our Youth Advisory Board & Concert Career Pathways graduates and created a Tier 2 stage (500 capacity) to complement our main stage (1,400 capacity). April will mark our three-year anniversary of theatre operations, and we have fine-tuned processes across the board re: human resources, filing incidents reports, and running facilities systems; and are in the process of creating an emergency action plan. We provided an all staff active shooter training and next year will implement an all staff sexual harassment training.

Concert Career Pathways (CCP) develops critical and creative thinking skills necessary to become successful in the workplace, offering youth passionate about music jobs an

**Berkeley Music Group**

A 501(c)(3) nonprofit organization

The UC Theatre: 2036 University Avenue, Berkeley, California 94704

Mailing: 1300 Clay Street, Suite 600, Oakland, California 94612

[www.theuctheatre.org](http://www.theuctheatre.org) • [education@theuctheatre.org](mailto:education@theuctheatre.org) • [information@theuctheatre.org](mailto:information@theuctheatre.org)

opportunity to develop a career in the field. CCP teaches young people ages 17 to 25 the technical, creative, and business aspects of concert and event promotion. This nine-month program develops critical and creative thinking skills necessary to become successful in the 21st century workplace. Our hands-on work-based learning model is a combination of free workshops and paid internships. We offer these programs to youth attending local schools, underserved youth through partnerships with established non-profit community organizations, and to the public. Our Concert Career Pathway Grads come from diverse backgrounds; 50% are young women, 70% are people of color, over half are from low-income households. 80% of program graduates have been successfully placed in jobs.

Job training programs in the Bay Area focus on fields such as culinary arts, technology, and solar energy. CCP is unique in that it connects one's love of music and arts with education and hard, technical skills in a lucrative industry. The Bay Area is home to a live concert and events industry that is currently experiencing growth. Potential jobs in the field offer competitive compensation: Production Managers can earn \$75,000 a year, and publicists, promoters, and marketing directors can earn six figures or more. No other music venue in the nation focuses on educating youth, building skills, and paving career pathways in business, production, and promotion amongst arts venues. CCP combines workshops and paid internships that teach best practices in producing live concerts and events.

Despite the wealth in the Bay Area, teenagers and young adults, particularly low-income youth of color, still struggle to find educational opportunities that lead to living wage jobs. CCP provides hands-on job experiences, fostering the understanding of work as an integral and satisfying aspect of life, and connecting youth to a field in which there are current job opportunities and career ladders.

CCP was intentionally designed with youth development leaders and industry professionals to support participants in addressing different barriers to entry in the job market. CCP supports participating youth to build skills applicable to the music industry and many other careers they may choose. Broad skills, such as budgeting, marketing, management, media and communications, are used in a variety of professions.

Partnerships with youth organizations ensure a strong support system for participants in developing soft skills necessary for success while also determining professional goals throughout the program. The UC Theatre Taube Family Music Hall and Berkeley Music Group partner with established youth organizations to recruit young people into the program, deliver ongoing support and training for participants, and provide feedback to continue program improvement. Partner non-profit organizations comprise

the theatre's Educational Advisory Committee: Berkeley Youth Alternatives, RYSE (Richmond), Youth Uprising (East Oakland), Berkeley YMCA, PG&E Teen Center, East Bay Center for the Performing Arts (Richmond), Center for Independent Living (Berkeley), Berkeley Unified School District, and Berkeley Rep School of Theatre.

Our Advanced Event Business and Leadership Training program for our Youth Advisory Board (YAB) members and CCP interns and graduates further develops technical, business and leadership skills in live music and event production with the goal of creating a necessary leadership pipeline to diversify the live music and events industry.

Management Training Program - Our Advanced Event Business Management and Leadership Training program is rooted in Multicultural Leadership and focuses on full-time administrative office management positions in: Advertising and Marketing, Fundraising Development, Talent Buying, Education Program Development, Special Events, Venue and Event Financial Management, Merchandise Management, and more. This Management and Leadership Business Training Program is a three to five-year program that provides training that focuses on building participant management and leadership skills so that they can improve performance for each department as well as the entire venue while seeing the larger picture, giving direction to a team, and supervising staff.

The Speak Your Truth (SYT) Concert Series - An Advanced Promotions & Production Management Training program. This concert series is completely produced and run by CPP Grads, YAB members, and Interns to give them hands-on experience in promotions and production management training. SYT takes place on our Tier One stage (a venue within the theatre on the top tier of The UC Theatre), a 250-capacity nightclub space that provides a platform for emerging local artists to share their talents on stage.

Participants will further develop skills in the following departments: Talent Buying, Grassroots Marketing, Digital Marketing, Live Sound Engineering, Theatrical Lighting, Stage Management, Production Management, Event Coordination, Budget and Financing and Event Sponsorship

The music industry management program, like many industries in the United States, lacks equality, diversion, and inclusion. The UC Theatre believes that bringing together young leaders from a variety of backgrounds with diverse perspectives will help create a more equal industry and provide a space for underserved youth to have their voices heard by their peers, some of whom come from more privileged backgrounds, providing exposure to and immersion in diverse voices and ideas. This unique

**THE UC THEATRE**  
**TAUBE FAMILY MUSIC HALL**

management program supports up-and-coming leaders of the Bay Area that hold promise for re-imagining the music industry in ways that advance intergenerational and multicultural leadership, inclusion and equity.



UC Theatre 1917

**Berkeley Music Group**

**A 501(c)(3) nonprofit organization**

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**THE  THEATRE**  
**TAUBE FAMILY MUSIC HALL**



The UC Theatre in 2012 (Still Not Operating)



The UC Theatre 2015 (Started Renovation)

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**THE UC THEATRE**  
**TAUBE FAMILY MUSIC HALL**



The UC Theatre Taube Family Music Hall Grand Opening April 2016

**Berkeley Music Group**

**A 501(c)(3) nonprofit organization**

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THE  THEATRE  
525252 5252525252525252  
TAUBE FAMILY MUSIC HALL



Pete Escovedo Latin Jazz Orchestra at The UC Theatre Taube Family Music Hall July 23, 2016

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THE  THEATRE  
TAUBE FAMILY MUSIC HALL



Tinariwen at The UC Theatre Taube Family Music Hall April 1, 2017



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G. Jones Concert at The UC Theatre Taube Family Music Hall November 17, 2018



Clozee at The UC Theatre Taube Family Music Hall December 27, 2018

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THE  THEATRE  
525252 5252525252525252  
TAUBE FAMILY MUSIC HALL



Mayer Hawthorne at The UC Theatre Taube Family Music Hall December 31, 2018

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**Mailing:** 1300 Clay Street, Suite 600, Oakland, California 94612

[www.theuctheatre.org](http://www.theuctheatre.org) • [education@theuctheatre.org](mailto:education@theuctheatre.org) • [information@theuctheatre.org](mailto:information@theuctheatre.org)

**THE  THEATRE**  
**TAUBE FAMILY MUSIC HALL**



BMG Concert Career Pathways Cohort 1

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**Berkeley Music Group**

**A 501(c)(3) nonprofit organization**

**The UC Theatre:** 2036 University Avenue, Berkeley, California 94704

**Mailing:** 1300 Clay Street, Suite 600, Oakland, California 94612

[www.theuctheatre.org](http://www.theuctheatre.org) • [education@theuctheatre.org](mailto:education@theuctheatre.org) • [information@theuctheatre.org](mailto:information@theuctheatre.org)

THE  THEATRE  
TAUBE FAMILY MUSIC HALL



Top left to right: Isaac Rezendiz (CCP 2017-2018 cohort), Bobby Kirwin (Youth Advisory Board member), Nicole Peña (CCP 2016-2017 cohort), Robyn Bykofsky (BMG Education Director), Phil Katague (CCP 2016-2017 cohort), Bryan Fuentes (CCP 2016-2017 cohort).  
Bottom left to right: Solomon Davis (CCP 2018-2019 cohort); Briana Pike (CCP 2018-2019 cohort); Rosy Wu (CCP 2018-2019 cohort), Nancy Garcia (CCP 2016-2017 cohort).

THE  THEATRE  
525252 5252525252525252  
TAUBE FAMILY MUSIC HALL



Shana Penn & Tad Taube at The UC Theatre Taube Family Music Hall Lobby Naming Ceremony September 22, 2016

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**Berkeley Music Group**

A 501(c)(3) nonprofit organization

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Councilmember  
Cheryl Davila  
District 2

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Cheryl Davila, Kate Harrison, Susan Wengraf and Ben Bartlett  
Subject: Honoring Healthy Black Families, Inc.: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila, to Healthy Black Families in honor of their 5<sup>th</sup> Anniversary, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$150 is available from Councilmember Cheryl Davila's Council Office Budget discretionary account (budget code 011 11 102 000 0000 000 411).

ENVIRONMENTAL SUSTAINABILITY

None.

BACKGROUND

For over the past five years, Healthy Black Families has provided community-centered programming and services in Berkeley to advance health and racial equity. We focus on the health, well-being, and agency of Black Families and the Black community.

CONTACT PERSON

Cheryl Davila, Councilmember, District 2      510.981.7120

ATTACHMENT: 1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE  
EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT  
TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has discretionary funds in her office expenditure account (budget code 011 11 102 000 0000 000 411); and

WHEREAS, Healthy Black Families is community based 501(c)3 organization that was established in 2014 to provide community-centered programming and services in Berkeley to advance health and racial equity; and

WHEREAS, racial equity is a priority for the City of Berkeley; and

WHEREAS, Healthy Black Families focuses on the health, well-being, and agency of Black Families and the Black community; and

WHEREAS, Healthy Black Families provides for the essential needs of program participants such as childcare, transportation vouchers and food incentives for meetings. Annually, HBF hosts various activities including, Mother's Day celebration, Turkey Basket distribution, December Holiday gathering, February Black History Month Celebration and a Summer Barbeque. Cultural celebrations are critical to the social and spiritual unity of our black families and integrated into HBF programming. All of our programs are free, provide incentives for participation, provide childcare at the site of meetings when needed and other supportive things for families who participate.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to Healthy Black Families in honor of their 5<sup>th</sup> Year Anniversary.





Cheryl Davila  
Councilmember  
District 2

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Cheryl Davila, Susan Wengraf and Ben Bartlett  
Subject: LifeLong Medical Care: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember including \$150 from Councilmember Cheryl Davila to LifeLong Medical Care for their many contributions to Berkeley with funds relinquished to the City’s general fund for this purpose from the discretionary Council Office Budgets of Councilmember Davila and any other Councilmembers who would like to contribute.

FISCAL IMPACTS OF RECOMMENDATION

No General Fund impact; \$150 is available from Councilmember Cheryl Davila’s Council Office Budget discretionary account (budget code 011 11 102 000 0000 000 411).

ENVIRONMENTAL SUSTAINABILITY

None.

BACKGROUND

LifeLong Medical Care has been committed to serving the community for over 40 years with compassion. LifeLong has a number of robust programs offering quality care including medical, dental and social services throughout Alameda and Contra Costa Counties for all ages.

CONTACT PERSON

Cheryl Davila, Councilmember, District 2                      510.981.7120

ATTACHMENT: 1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Cheryl Davila has discretionary funds in her office expenditure account (budget code 010-0224-410); and

WHEREAS, LifeLong Medical Care has been serving the community for over 40 years; and

WHEREAS, the program initially focused on the unmet needs of low-income seniors through the "Over 60 Health Center"; and

WHEREAS, LifeLong Medical Care has since evolved into a robust program offering quality care for all ages, including medical, dental and social services throughout Alameda and Contra Costa Counties; and

WHEREAS, LifeLong Medical Care provides education and advocacy through a team of experts that are trained through their Heart 2 Heart Program; and

WHEREAS, LifeLong Medical Care is committed to addressing community needs and reducing health inequalities.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$250 per office shall be granted to LifeLong Medical Care to fund the above services for their 2019 Gala.



# Councilmember Ben Bartlett

# 15

City of Berkeley, District 3  
 2180 Milvia Street, 5<sup>th</sup> Floor  
 Berkeley, CA 94704  
 PHONE 510-981-7130  
 EMAIL: [bbartlett@cityofberkeley.info](mailto:bbartlett@cityofberkeley.info)

## CONSENT CALENDAR

March 26th, 2019

To: Honorable Mayor and Members of the City Council  
 From: Councilmember Ben Bartlett  
 Subject: ***Dynamex* Decision Impact and Compliance on Minimum Wage Ordinance and Paid Sick Leave Ordinance**

### RECOMMENDATION

That the City Council refers to the City Manager and the Labor Commission to ensure the Berkeley Minimum Wage Ordinance (MWO) and Paid Sick Leave Ordinance are interpreted and enforced in a manner consistent with the holdings in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903.

### CURRENT SITUATION

The California Supreme Court decision in *Dynamex* held that the burden is on the employer to establish that a worker is an “independent contractor,” as opposed to an “employee,” and that in order to meet this burden, the employer must establish each of the three factors in the “ABC” test. In light of the *Dynamex* decision, it is clear that many workers have been improperly misclassified as “independent contractors” when they should have been classified as employees. Employees are entitled to workers’ compensation insurance and other benefits; independent contractors are not. Since Berkeley’s Minimum Wage Ordinance and Paid Sick Leave Ordinance apply to workers who are defined as employees under the California Labor Code, the *Dynamex* decision clarified that these ordinances apply more broadly than as interpreted by many employers. The Berkeley City Council must ensure that the Minimum Wage Ordinance and Paid Sick Leave Ordinance are interpreted in a manner consistent with the holdings in *Dynamex*.

### BACKGROUND

Companies have frequently misclassified workers as independent contractors to avoid paying for workers’ benefits and filing taxes. “According to the California Labor Commissioner’s website, the misclassification of workers as independent contractors costs the state roughly \$7 billion in lost payroll taxes each year.”<sup>1</sup> Enforcement of the *Dynamex* decision will reduce these costs and reduce misclassification by requiring employers to classify their workers as employees unless the employer establishes each of the following three factors:

<sup>1</sup> <https://www.latimes.com/local/lanow/la-me-ln-independent-contract-20180430-story.html>

- A. that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; and
- B. that the worker performs work that is outside the usual course of the hiring entity's business; and
- C. that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

The *Dynamex* decision is retroactive. See *Oriana Johnson v. VCG-IS LLC*, case number 30-2015-00802813 (Superior Court of the State of California, Orange County) (July 18, 2018).

Enforcement of the *Dynamex* decision will result in more workers being classified as employees entitled to the minimum wage pursuant to California's minimum wage laws in Section 1197 of the California Labor Code. Berkeley's Minimum Wage Ordinance and Paid Sick Leave Ordinance apply to employees as defined below:

- 1. In a calendar week performs at least two (2) hours of work for an Employer within the geographic boundaries of the City; and
- 2. **Qualifies as an Employee entitled to payment of a minimum wage from any Employer under the California minimum wage law**, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a Welfare-to-Work Program.

The City Council must therefore ensure that the Minimum Wage Ordinance and Paid Sick Leave Ordinance are interpreted and enforced consistently with *Dynamex*.

#### REVIEW OF EXISTING PLANS, PROGRAMS, POLICIES, LAWS

The Berkeley Minimum Wage Ordinance and Paid Sick Leave Ordinance define an "employee" as:

"Employee" shall mean any person who: 1. In a calendar week performs at least two (2) hours of work for an Employer within the geographic boundaries of the City; and 2. Qualifies as an Employee entitled to payment of a minimum wage from any Employer under the California minimum wage law, as provided under Section 1197 of the California Labor Code and wage orders published by the California Industrial Welfare Commission, or is a participant in a Welfare-to-Work Program.

#### ACTIONS/ALTERNATIVES CONSIDERED

Because these ordinances have already been passed and are currently implemented in Berkeley, the City Council must refer to the City Manager and Labor Commission to determine how the *Dynamex* ruling applies to ensure the current laws are being interpreted and enforced properly.

Alternatives would include repealing and replacing these ordinances or only selectively enforcing them. Because these ordinances provide a solid and readily adaptable legal framework for protecting workers' rights, they should not be repealed. Selectively enforcing them is illegal.

#### CONSULTATION/OUTREACH OVERVIEW AND RESULTS

After consulting with multiple labor unions and social justice organizations, forty-nine of them have officially provided their support to proceed with the recommendations of this item. The organizations that have signed their support are displayed in the attachment below.

#### RATIONALE FOR RECOMMENDATION

The City of Berkeley has devoted itself to protecting its citizens' rights to a minimum wage and livable benefits. *Dynamex* has clarified which workers are entitled to the rights of employees under state law in a manner that should increase the number of workers classified as employees. As a result, more workers will receive the protections and benefits of employees under state law. Likewise, by ensuring that local ordinances are interpreted and enforced consistently with the *Dynamex* ruling, the City will increase the number of people protected by those ordinances.

#### IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

This is a referral to the City Manager and Labor Commission to interpret and enforce the Minimum Wage Ordinance and Paid Sick Leave Ordinance consistent with *Dynamex*. Specifically: (1) placing the burden on the hiring entity to establish that the worker is not intended to receive the benefits of, and included within, the Minimum Wage Ordinance and/or Paid Sick Leave Ordinance; and (2) requiring the hiring entity, in order to meet this burden, to establish *each* of the three factors embodied in the ABC test—namely (A) that the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; *and* (B) that the worker performs work that is outside the usual course of the hiring entity's business; *and* (C) that the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed. Moreover, like *Dynamex*, the interpretation of the ordinances to be consistent with *Dynamex* can and should be retroactive.

#### ENVIRONMENTAL SUSTAINABILITY

No negative impact.

#### FISCAL IMPACTS

Workers in the City of Berkeley would be in better positions to support themselves financially and to contribute more to Berkeley's economic development.

OUTCOMES AND EVALUATION

It is expected that the City Council will refer to the City Manager and Labor Commission to ensure that the Minimum Wage Ordinance and Paid Sick Leave Ordinance are interpreted and enforced consistently with *Dynamex*.

CONTACT PERSON

Councilmember Ben Bartlett:  
Kyle Tang:

510-981-7130  
kyle.tang@berkeley.edu

ATTACHMENTS/SUPPORTING MATERIALS

1. List of Labor Unions and Social Justice Organizations Supporting the Decision









Susan Wengraf  
Councilmember District 6

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Wengraf, Bartlett and Hahn and Mayor Arreguin  
Subject: Holocaust Remembrance Day Event: Relinquishment of Council Office Budget Funds from General Funds and Grant of Such Funds

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$250 per Councilmember, including up to \$250 from Councilmember Wengraf, to support the City's Holocaust Remembrance Day program with funds relinquished to the City's general fund. The relinquishment of funds from Councilmember Wengraf's discretionary Council Office Budget and any other Councilmembers who would like to contribute allows the City of Berkeley to invite and support the community to the City's 17<sup>th</sup> Annual Holocaust Remembrance Day program on Sunday, April 28<sup>th</sup>, 11:30 AM at the Magnes Collection of Jewish Art and Life.

FINANCIAL IMPLICATIONS

No General Fund impact: \$250 is available from contributing Councilmember's Council Office Budget discretionary accounts.

BACKGROUND

The City of Berkeley's 17<sup>th</sup> Annual Holocaust Remembrance Day program includes a candle lighting ceremony, a Holocaust Survivor's story, an artist presentation, a grandchild's story, live cultural music, and refreshments afterwards. The community event invites attendees to enjoy Jewish history, honor those who survived and perished in the Holocaust and strengthen convictions to never let the Holocaust happen again.

Expenses for this event, including rental rates and auxiliary costs, have increased dramatically over the last few years. We are asking for Councilmember's generous support.

ENVIRONMENTAL SUSTAINABILITY

No impact

CONTACT PERSON

Councilmember Wengraf                      Council District 6                      510-981-7160

Attachments: 1: Resolution

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmembers Susan Wengraf and Ben Bartlett have surplus funds in their office expenditure accounts and will each contribute \$250, and invite the Mayor and other Councilmembers to join them in contributing; and

WHEREAS, a California non-profit tax exempt corporation, Jewish Community Center, seeks funds in the amount up to \$250 per contributing Councilmember's Council Office Budget discretionary accounts that provided the following public services of rental fees, light refreshments, honorariums, publicity, and video production; and

WHEREAS, the provision of such services would fulfill the following municipal public purpose of providing a community program supporting Holocaust survivors, community recognition and education about the Holocaust, and unity among Berkeley residents. The grants provide a spacious venue, video documentation, and light refreshments.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget, up to \$250 per office, shall be granted to the Jewish Community Center to fund the City of Berkeley's 17<sup>th</sup> Annual Holocaust Remembrance Day program.



Susan Wengraf  
Vice Mayor and Councilmember District 6

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Susan Wengraf, Sophie Hahn, Lori Droste and Rashi Kesarwani  
Subject: Support for SB-190 Fire Safety: Building Standards

RECOMMENDATION

Send a letter in support of SB-190 Fire Safety: Building Standards (Dodd) to Senator Dodd and copy Senator Skinner, Representative Wicks and Governor Newsom.

The Legislation would require the Office of the State Fire Marshal to:

1. Develop a model defensible space program to be used by cities and counties to enforce defensible space provisions.
2. Develop Wildland-Urban Interface Fire Safety Building Standards Compliance Training Manual, and make available via website. To be used locally in training of building officials, builders and fire service personnel.
3. Develop guidance document for maintenance of defensible space around residential structures.
4. Develop and update regularly a Wildland-Urban handbook listing products and construction systems that comply with specified Wildland-Urban Interface Fire Safety building standards.
5. Use money from the Building Standards Administration Special Revolving Fund in the State Treasury to carry out the provisions.

FINANCIAL IMPLICATIONS

None

BACKGROUND

Catastrophic fires as a result of extreme weather conditions have devastated California in the last several years. The extent of loss of life and property have exceeded any situation the state has historically had to address. Faced with this new probability of increasing risks from wildfire, as a result of climate change, legislators are interested in

Support for SB-190 Fire Safety: Building Standards

CONSENT CALENDAR

March 26, 2019

developing better resources for both industry and individuals to be able to better prevent and mitigate these potential disasters.

SB-190 directs the State Fire Marshal to work out the details, in collaboration with local agencies, of fire safety code requirements to mitigate the state's increased fire risk. This state leadership will increase clarity and education to fire safety staff and support the City of Berkeley to strengthen its existing fire safety protocols and regulations.

#### ENVIRONMENTAL SUSTAINABILITY

Fire prevention is critical for environmental sustainability. In 2018, California wildfires emitted as much carbon dioxide as an entire year's worth of California's electricity according to a November 30, 2018 press release from the U.S Department of the Interior.

#### CONTACT PERSON

Councilmember Wengraf

Council District 6

510-981-7160

#### Attachments:

1: Letter of Support

2: [SB-190](#)

Honorable Bill Dodd  
California State Senator  
State Capitol, Room 4032  
Sacramento, CA 95814

Dear Senator Dodd:

The City of Berkeley supports S.B. 190, Fire Safety: Building Standards. Thank you for addressing fire prevention on the state level. We need state guidance and regulation to help California's areas vulnerable to the catastrophic impacts of wildfires, especially since as they becoming increasingly frequent due to climate change.

The 1991 Tunnel Fire that burned the Oakland and Berkeley Hills, and cost 25 lives, numerous injuries and nearly 3,500 homes, taught us the importance of preventative measures. By requiring the Office of the State Fire Marshal to develop a model defensible space program for the State's cities and counties to use, your bill encourages prevention.. The same is true for the other components of your bill, such as requiring the State Fire Marshal to create a Wildland-Urban Interface Fire Safety Building Standards Compliance Training Manual for local jurisdictions to use to train their building officials and fire service personnel.

We all want to prevent fires in California. We know that fires don't stay within the confines of a specific city's limits. S.B 190 can help all of California's cities and counties to strengthen their fire prevention tactics and regulations. The City of Berkeley is in full support of S.B. 190.

Thank you,

The Berkeley City Council

CC:  
Senator Skinner  
Representative Wicks  
Governor Newsom

**Introduced by Senator Dodd  
(Coauthors: Assembly Members Gallagher, Grayson, Lackey, and Salas)**

**January 30, 2019**

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An act to amend Section 51189 of the Government Code, to amend Section 18931.7 of, and to add Section 13159.5 to, the Health and Safety Code, relating to fire safety.

### **LEGISLATIVE COUNSEL'S DIGEST**

SB 190, as introduced, Dodd. Fire safety: building standards.

(1) Existing law requires a person, as defined, who owns, leases, controls, operates, or maintains a occupied dwelling or occupied structure in, upon, adjoining specified types of land areas within a very high fire hazard severity zone to maintain defensible space around the structure fire protection or a firebreak, as specified.

Existing law also requires the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, to recommend updated building standards that provide for comprehensive site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures, as provided.

This bill would require the Office of the State Fire Marshal to develop, in consultation with representatives from local, state, and federal fire services, local government, building officials, utility companies, the building industry, and the environmental community, a model defensible space program to be made available for use by a city, county, or city and county in the enforcement of the defensible space provisions. The bill would set forth required components of the program.

(2) Existing law requires the Director of Forestry and Fire Protection to identify areas in the state, except as specified, as very high fire hazard severity zones based on specified criteria in order to enable public officials to identify measures that will retard the rate of spread and reduce the potential intensity of uncontrolled fires that threaten to destroy resources, life, or property and to require that those measures be taken. Existing law requires the State Fire Marshal to prepare and adopt a model ordinance that provides for the establishment of very high fire hazard severity zones. Existing law also requires the State Fire Marshal to annually review, revise as necessary, and administer the California Fire Service Training and Education program. Existing law requires a local agency to designate, by ordinance, very high fire hazard severity zones within its jurisdiction.

This bill would require the Office of the State Fire Marshal to develop and make available on their internet website a Wildland-Urban Interface Fire Safety Building Standards Compliance training manual intended for use in the training of local building officials, builders, and fire service personnel. The bill

would require the Office of the State Fire Marshal to develop a guidance document for the maintenance of defensible space around residential structures. The bill would also require the Office of the State Fire Marshal to develop and update on a regular basis a Wildland-Urban Interface Products handbook listing products and construction systems that comply with specified Wildland-Urban Interface Fire Safety building standards.

(3) Existing law establishes the Building Standards Administration Special Revolving Fund in the State Treasury. Existing law provides that moneys in the fund, which include building permit applicant fees, shall be available, upon appropriation, to the Office of the State Fire Marshal, among other state entities, for expenditure in carrying out various provisions relating to building and housing standards, as provided. This bill would additionally provide that, upon appropriation, moneys in the fund may be available for purposes of carrying the requirements described in paragraphs (1) and (2).







CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

**18**

CONSENT CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Councilmembers Rigel Robinson, Kate Harrison, Sophie Hahn and Cheryl Davila  
Subject: The Suitcase Clinic: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Fund

RECOMMENDATION

Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$250 from Councilmember Robinson, to The Suitcase Clinic to assist in the expansion of its free laundry program, with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Councilmember Robinson and any other Councilmembers who would like to contribute.

BACKGROUND

The Suitcase Clinic is a UC Berkeley student organization and volunteer community that offers free health and social services to underserved populations, including unhoused Berkeley residents. It also strives to educate students, engage in community organization, and support public policy efforts that address homelessness in the local community.

The Suitcase Clinic is requesting funds for the expansion of its free laundry program for those experiencing poverty or homelessness. Over the past few months, they have seen a spike in the use of our service that is currently offered on the second Tuesday of each month. Because free laundry services are lacking in Berkeley they would like to expand the program to increase access to the basic right of clean clothing.

FINANCIAL IMPLICATIONS

No General Fund impact; \$250 is available from Councilmember Robinson's Office Budget discretionary accounts.

ENVIRONMENTAL SUSTAINABILITY

No Impact

CONTACT PERSON

Councilmember Rigel Robinson, (510) 981-7170

Attachments:

1: Resolution for Council Expenditures

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

AUTHORIZING THE EXPENDITURE OF SURPLUS FUNDS FROM THE OFFICE EXPENSE ACCOUNTS OF THE MAYOR AND COUNCILMEMBERS FOR A GRANT TO PROVIDE PUBLIC SERVICES FOR A MUNICIPAL PUBLIC PURPOSE

WHEREAS, Councilmember Rigel Robinson has surplus funds in his office expenditure account; and

WHEREAS, a California non-profit tax exempt corporation, The Suitcase Clinic, seeks funds in the amount of \$500 to expand its free laundry service for the Berkeley community; and

WHEREAS, the provision of such services would fulfill the municipal public purpose of allowing all Berkeley residents, regardless of their means, to have access to clean clothing, an amenity fundamentally necessary for human dignity.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funds relinquished by the Mayor and Councilmembers from their Council Office Budget up to \$500 per office shall be granted to The Suitcase Clinic to fund expanded free laundry services.



Office of the City Manager

**19**PUBLIC HEARING

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning & Development Department

Subject: ZAB Appeal: 1722 Walnut Street

RECOMMENDATION

Conduct a public hearing, and upon conclusion adopt a Resolution to affirm the Zoning Adjustments Board decision to deny Use Permit/Variance #ZP2018-0021 to legalize an unpermitted detached dwelling unit in the rear yard area of a lot legally developed with an eight-unit apartment building, and dismiss the appeal.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On November 8, 2018, the Zoning Adjustments Board (ZAB) held a public hearing and denied Use Permit/Variance #ZP2018-0021 by a vote of 6-1-0-1 (Yes: Kahn, Sheahan, Selawasky, O'Keefe, Olson, Wright, Pinkston; No: Clarke; Abstain: None; Absent: Kim). On November 15, 2018, staff issued the notice of the ZAB decision. On November 28, 2018, Margrett Lewis and Joe Priest ("Appellants") filed an appeal with the City Clerk. The Clerk set the matter for review by the Council on March 26, 2019.

BACKGROUND

The project site is a 5,479-square-foot parcel that is developed with an approximately 6,000-square-foot, two-story, eight-unit apartment building that was constructed in 1926. No off-street parking exists on the site. Approximately six years ago, the property owners built a detached cottage (i.e. dwelling unit) without permits in the southwestern (rear left) corner of the property in a location where a shed had been located.

In February 2017, John Stevick ("Applicant") submitted a request for a zoning determination on the most expedient way to legalize the subject dwelling unit. The Zoning Research Letter response, dated April 3, 2017 (see Attachment 4) is that the project would be subject to current development standards of the Berkeley Municipal Code and that Variances would be required to approve the project, and that Variance findings are "often difficult to make."

A Variance is a deviation from current zoning requirements that permits a landowner to not comply with the standards required of other landowners in the same zone. Typically, a variance is granted when the property owner can demonstrate that existing zoning regulations present a practical difficulty in making use of the property due to physical characteristics of the property. The classic example involves a residential lot that is identical in size and shape to the surrounding lots, but suffers from the presence of a large, immovable boulder. In this instance, a variance waiving ordinary setback requirements may permit the landowner to build a house, even though the boulder makes construction of the house within the normal zoning envelope impossible.<sup>1</sup>

On November 14, 2017, the Neighborhood Services-Enforcement Division sent a Notice of Violation (NOV) to the property owners for construction of a dwelling unit without the required Land Use or Building and Safety Division permits or approvals. The property owners submitted the subject application on January 28, 2018. In addition to the Use Permit to construct a new dwelling unit and two Administrative Use Permits (AUPs) to reduce the required rear yard setback and to reduce the building-to-building separation, the project requires four Variances from the Multi-Family Residential (R-4) zoning development standards:

- Variance to decrease the required left side yard setback below the 4-foot minimum to 2.2 feet;
- Variance to further increase the non-conforming 60% lot coverage to 61% where a maximum of 45% is permissible for a lot with a two story building;
- Variance to not provide and to further decrease the non-conforming Useable Open Space per dwelling, providing 990 square feet, where a minimum of 1,800 square feet is required; and
- Variance to not provide the required off-street parking space for a new dwelling unit.

In order to approve a Variance, all of the following Findings must be made (BMC 23B.44.030):

1. There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District;
2. The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner;
3. The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the

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<sup>1</sup> Fulton, William and Shigley, Paul. *Guide to California Planning, 4<sup>th</sup> Edition*. Point Arena: Solano Press Books, 2012.

circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole;

4. Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.

After multiple rounds of review to collect all the pertinent background information and obtain a complete and accurate application, staff prepared a staff report to the ZAB that recommended denial of the permit application because the required Variance findings cannot be made and because the project is inconsistent with the Purposes of the District. At the November 8, 2018 meeting, the ZAB held a public hearing, discussed the project, concluded it could not make the Findings to approve the Variances, and denied the project.

#### ENVIRONMENTAL SUSTAINABILITY

There are no environmental factors associated with this project.

#### RATIONALE FOR RECOMMENDATION

The issues raised in the Appellant's letter, and staff's responses, are as follows. For the sake of brevity, the appeal issues are not re-stated in their entirety; refer to the attached appeal letter for full text.

Issue 1: "...both the Planning Department and ZAB's recommendations and rulings directly contradict their mission to maintain and grow the housing supply, particularly rent controlled units." "ZAB's demand that this cottage be demolished is: (iii) a direct contradiction of Berkeley's stated goals of providing housing." [pages 1 and 2 of attached appeal letter]

Response 1: Policy H-19 of the Housing Element is to encourage housing production adequate to meet the housing production goals established by ABAG's Regional Housing Needs Determination for Berkeley. There are, however, eleven stated purposes of the Zoning Ordinance (Ordinance), found in Chapter 23 of the Berkeley Municipal Code (BMC), which include:

- Implementation of *all* policies of the City's adopted General and Area Plans [emphasis added];

- Regulation of the location and use of land, buildings and structures to encourage the more appropriate use of land and a compatible and harmonious relationship among land uses; and
- Provision of adequate usable open space, off-street parking and off-street loading spaces for specified land uses by requiring certain reservations of land and structures for such purposes, and by regulating the number, placement and location of such spaces and areas (BMC Section 23A.04.030).

The Ordinance states, “No land or building shall be used, or designed to be used, nor shall any new building or structure be constructed [...] except as permitted by this Ordinance, either as of right or by permit.” There are four development standards—side yard setback, lot coverage, Useable Open Space, parking—with which the illegal construction fails to comply and, therefore, is not permitted by the Ordinance. Staff’s recommendation and ZAB’s decision properly accounted for all required State and local laws and policies.

Issue 2: “ZAB Staff appeared to have gone out of their way to treat the application by John Stevick differently than others in several ways.” [page 2]

Response 2: The Appellants provide no evidence how staff or ZAB treated the Applicant differently than other applicants and is unclear what pictures the Appellants are referring to that staff failed to distribute. Staff provided all correspondence received during the processing of the application to the ZAB up until the noon deadline the day of the meeting, after which correspondents must bring their own correspondence to ZAB. The Applicant presented additional information to ZAB at the hearing, including written arguments and photographs, which were considered by the decision-makers.

Issue 3: “ZAB’s demand that this cottage be demolished is: (i) a clear physical and monetary stand which contradicts the US Constitution.” [page 2]

Response 3: The Appellants do not have a constitutional right to maintain an unpermitted, illegally constructed, nonconforming structure on their property. ZAB’s decision to require removal of the Appellant’s illegally constructed building is well within its authority to enforce the Zoning Ordinance.

Issue 4: ZAB’s demand that this cottage be demolished is...(ii) an example of the ZAB treating the owners [...] differently than other large developers. [page 2, 5]

- Response 4: The Appellants may be referencing a 2016 ZAB approval of Use Permit #ZP2016-0132 for construction of a duplex behind a four-unit apartment building. Unlike the subject project, that 2016 Use Permit complied with all development standards of the Zoning Ordinance, as allowed by right or permissible with AUP approval. No Variances were required, requested, or granted. ZAB evaluated both projects for consistency with the Zoning Ordinance and voted accordingly.
- Issue 5: “If 1722 Walnut Street were to be a completely empty lot today, the subject property could be approved for the development of 19 or more units...” [page 5]
- Response 5: As the underlying R-4 Zoning District does not have a maximum density standard, the Appellant’s assertion may be correct if the proposed project complied with the development standards of the District. However, lot coverage, setbacks, open space and parking requirements would each limit such a hypothetical project to the same degree it limits the subject proposal.
- Issue 6: “ZAB’s demand that this cottage be demolished is: (iv) a lost opportunity to work with an owner to develop smart infill that is aesthetically pleasing, has no impact on neighboring properties, is walkable to public transportation, and, most importantly, helps mitigate the unprecedented housing crisis Berkeley states we are in on their own website.” [page 2]
- Response 6: It is the responsibility of ZAB to administer the provisions of the Zoning Ordinance (BMC 23B.04.010.A). ZAB followed the framework of regulations regarding the construction of buildings and additions and the size and coverage of lots (BMC 23A.04.030.C).
- Issue 7: There clearly are exceptional or extraordinary circumstances or conditions, in terms of homelessness. [page 3]
- Response 7: In order to approve a Variance, the City must be able to make the finding that, “There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District.” The use of a Variance is generally understood as a means of reestablishing parity for property owners when their property is unusually situated or otherwise constrained from achieving the same type of development that would otherwise be allowed in the area. The subject property is a flat rectangular lot with

substantial existing legal development (an 8-unit apartment building), so it does not qualify for a Variance.

Issue 8: “[ZAB] ruled against keeping the rent-controlled unit in place, a direct contradiction to one of their most important and loudly stated missions.” [page 4]

Response 8: As previously stated in Responses 1 and 6 above, it is the responsibility of ZAB to fairly and consistently administer the provisions of the Zoning Ordinance first and foremost and, within that framework, to further the goals and policies of the City’s General Plan and other plans. As such, denial of the illegal dwelling unit is not contradictory, but is instead an appropriate action and consistent with ZAB’s authority.

The illegal dwelling, which is located on a parcel with a rent-controlled apartment building, is currently registered with the Rent Stabilization Board (RSB). Since the dwelling never received land use or building permits and, therefore, never received a Certificate of Occupancy, it is not exempt from rent control, but neither is it legally habitable and should not be registered as available for rent. If the Variance and Use Permits were granted, then, the dwelling would be required to receive all required building permits and would be issued a Certificate of Occupancy, thereby exempting it from rent control.

Staff also notes that rent control does not equate to affordable housing. As mentioned in the November 8, 2018 ZAB staff report, as early as 2016, the cottage was listed on Airbnb along with at least five other of the apartments in the main building. Based on the current availability of the unit(s), as well as the frequency of the reviews, the registered rent ceiling resets to market rate approximately two to four times a year. Currently, the subject 346-square-foot dwelling rents for \$3,580 per month, inclusive of utilities and an 18% monthly price discount.<sup>2</sup>

Issue 9: Staff’s restricted interpretation of property rights, “flies in the face of the U.S. Constitution. It is clearly a physical and monetary taking of the owner’s property.” [page 4]

Response 9: The second finding the City must make in order to grant a Variance is that, “The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property’s owner.” Property rights are a property owner’s ability to use his or her property in a manner consistent with the applicable provisions of the

<sup>2</sup>[https://www.airbnb.com/rooms/14265796?location=Berkeley%2C%20CA%2C%20United%20States&adults=1&guests=1&s=CW1lIdq3&check\\_in=2019-04-01&check\\_out=2019-04-30](https://www.airbnb.com/rooms/14265796?location=Berkeley%2C%20CA%2C%20United%20States&adults=1&guests=1&s=CW1lIdq3&check_in=2019-04-01&check_out=2019-04-30)



Zoning Ordinance; the application cannot be used to support any condition that a property is in, or made to be, that is unlawful. Property rights are not directly related to the financial viability or profitability of a property. Contrary to the Appellants' statement, requiring property owners to remove an illegally constructed, unpermitted structure that does not comply with the Zoning Ordinance is well within ZAB's authority.

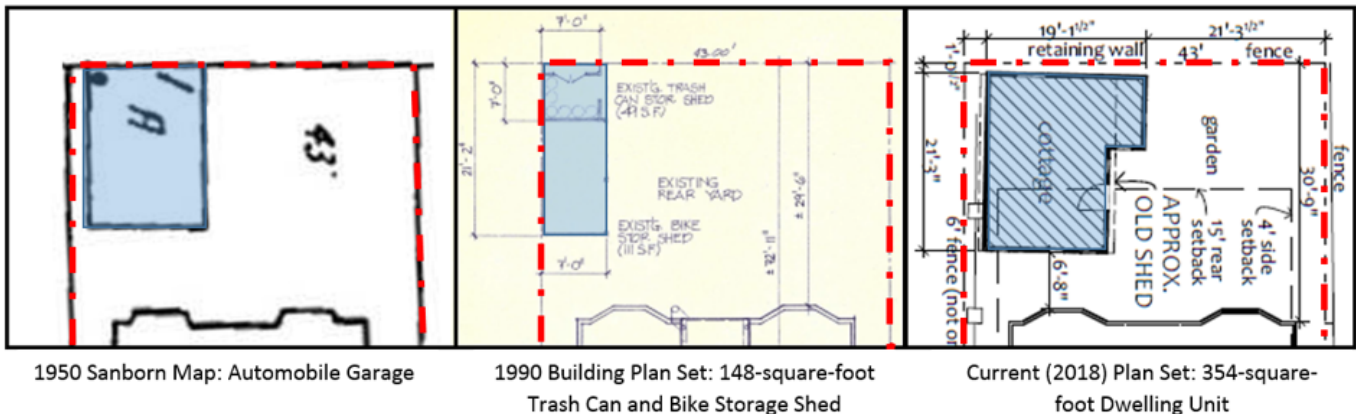
Issue 10: Staff illogically concludes that the project does not meet the purpose of the District to "Make available housing for persons who desire convenience of location and a reasonable amount of Useable Open Space. [pages 4-5]

Response 10: First to clarify, it is not staff's decision that is being appealed, but the ZAB's decision.

The Appellants state that the footprint of the illegal dwelling is not much larger than a previous detached structure that existed on the site and that the garden is actually larger than it was previously.

As shown on the 1950 Sanborn Map, a garage was located on the subject site in much the same location, but smaller footprint, as the existing illegal dwelling. A site plan included in a plan set for a 1990 Building Permit that was provided by the Applicant, however, shows the garage had been replaced by a much smaller, approximately 148-square-foot trash and bike shed. See Figure 1 below. The legal condition of the property is, therefore, reflected in the 1990 site plan.

Figure 1: 1722 Walnut Street Rear Yard Plan



Useable Open Space is defined as the area of a lot reserved for active or passive recreation use that is accessible to the occupants of the building and meets certain dimensional requirements for size, slope, and

landscape / hardscape area (BMC 23D.04.050). The existence of a foundation slab, as mentioned by the Appellants, does not exempt an area as Useable Open Space; the construction of a dwelling does.

The project site is already non-conforming for Useable Open Space under legal conditions. Approximately 1,416 square feet exist (pre-project) where 1,600 square feet are required for the eight legal dwelling units. Adding another dwelling and removing pre-existing useable open space would result in a deficit of approximately 810 square feet. This would fail to accomplish one of the stated objectives of the R-4 zoning district.

#### ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the ZAB.

#### ACTION DEADLINE:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

#### CONTACT PERSONS

Timothy Burroughs, Director, Planning & Development Department, (510) 981-7437  
Leslie Mendez, Senior Planner, Planning & Development Department, (510) 981-7426

#### Attachments:

- 1: Resolution  
    Exhibit A: Findings for Denial
- 2: Appeal Letter, dated November 28, 2018
- 3: ZAB Staff Report with Memorandum, dated November 8, 2018
- 4: Zoning Research Letter, dated April 3, 2017
- 5: Index to Administrative Record
- 6: Administrative Record
- 7: Public Hearing Notice

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

DENYING USE PERMIT/VARIANCE #ZP2018-0021 TO LEGALIZE AN UNPERMITTED DETACHED DWELLING UNIT IN THE REAR YARD AREA OF AN EXISTING 8-UNIT APARTMENT BUILDING AT 1722 WALNUT STREET IN THE MULTI-FAMILY RESIDENTIAL (R-4) ZONING DISTRICT.

WHEREAS, on January 29, 2018, John Stevick (“Applicant”) filed an application to legalize a detached dwelling unit located in the rear yard area of an existing eight-story apartment building located at 1722 Walnut Street (“Project”); and

WHEREAS, on September 5, 2018, staff deemed this application complete; and

WHEREAS, on November 8, 2018, at a duly noticed public hearing, the Zoning Adjustments Board denied Use Permit/Variance #ZP2018-0021 for the reasons set forth in a notice of decision released on November 15, 2018; and

WHEREAS, on November 15, 2018, staff issued the notice of the ZAB decision; and

WHEREAS, on November 28, 2018, Margrett Lewis and Joe Priest filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on March 26, 2019, the Council held a public hearing to consider the ZAB’s decision, and, in the opinion of this Council, the facts stated in or ascertainable from the public record, including comments made at the public hearing, warrant denying the project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby adopts the findings for denial made by the ZAB in Exhibit A, affirms the decision of the ZAB to deny Use Permit/Variance #ZP2018-0021, and dismisses the appeal.

Exhibits

A: Findings for Denial

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## FINDINGS FOR DENIAL

NOVEMBER 8, 2018

# 1722 Walnut Street

**Use Permit/Variance #ZP2018-0021 to permit a ninth dwelling unit on a lot with an existing two-story, eight unit apartment building.**

### PERMITS REQUIRED

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- Use Permit to construct a new dwelling unit, under BMC Section 23D.40.030
- Administrative Use Permit (AUP) to reduce the rear yard setback for two or more Main Buildings which contain dwelling units under BMC 23D.40.070.D.1
- Administrative Use Permit (AUP) to reduce the required building separation between two or more main building that contain dwelling units under BMC 23D.40.070.D.2
- Variance to decrease the required left side yard setback below minimum requirement per BMC 23D.40.070.D
- Variance to further increase the non-conforming lot coverage over the maximum requirement per BMC 23D.40.070.E
- Variance to not provide and to further decrease the non-conforming Useable Open Space per dwelling below the minimum requirement per BMC 23D.40.070.F
- Variance to not provide the minimum parking requirement (one space) for a new dwelling unit per BMC 23D.40.080.A

### I. VARIANCE FINDINGS

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Pursuant to Berkeley Municipal Code Section 23B.44.030.B, the City cannot make the findings required by Berkeley Municipal Code Section 23B.44.030.A, and therefore must deny the Variances to: (1) to permit a 2.2-foot side yard setback where a minimum of 4 feet is required for a first story by BMC 23D.40.070.D; (2) to not provide off-street parking space that is required for the new dwelling by BMC 23D.40.080.A; (3) to further increase the existing non-conforming 60% lot coverage to 61% where the maximum is 45% for a property with a two-story building per BMC 23D.40.070.E; and (4) to not provide the required Useable Open Space and further reduce the existing non-conforming open space to 990 square feet, where double that (1,800 square feet) is required by BMC 23D.40.070.F, for the following reasons:

- i. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District:*

The applicant has provided no evidence, nor can staff find evidence of circumstance or conditions that apply to the land, building or use which do not generally apply to land buildings and/or uses in the same District. Neither access to public transportation nor existence of an illegal condition are considered unique or otherwise exceptional or extraordinary. Similarly, due to the age of buildings and the various changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this District to varying degrees, including the subject site. This finding cannot be made.

- ii. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner:*

Staff interprets property rights as a property owner's ability to use his or her property in a manner consistent with the applicable provisions of the Ordinance; the application cannot be used to support any condition that a property is in, or made to be, that is unlawful. Nor is it related to the financial viability or profitability of a property. The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights. In fact, the property owners purchased, and have managed, a property with eight lawful, rental dwelling units for several years. This finding cannot be made.

- iii. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole:*

One of the purposes of the R-4 District is to "Make available housing for persons who desire both convenience of location and a reasonable amount of Useable Open Space." The project site is currently non-conforming for Useable Open Space and exceeds allowable lot coverage, the proposed project exacerbates both these conditions. The project, therefore, also conflicts with the purposes of the Zoning Ordinance in that it exceed the appropriate intensity of development of land and buildings through excessive lot coverage (BMC 23A.04.030.C) and it does not provide for adequate usable open space or off-street parking (BMC 23A.04.030.E). This Finding cannot be made.

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November 28, 2018

CITY OF BERKELEY  
CITY CLERK DEPT808 Gilman Street  
Berkeley, CA 94710Berkeley City Clerk  
2180 Milvia Street, 1st Fl  
Berkeley, CA 94704

2018 NOV 28 PM 4: 52

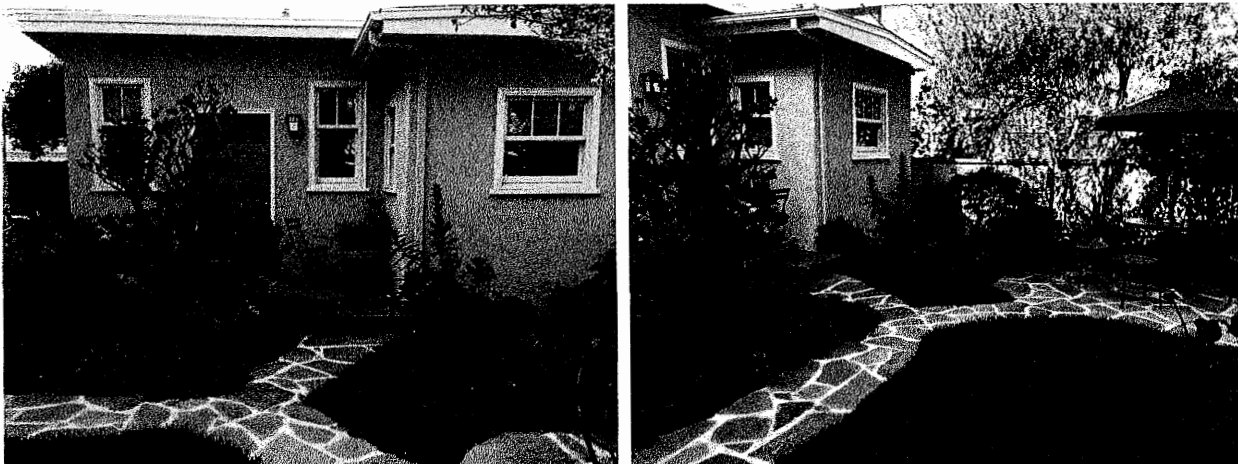
**Re: Appeal to the City Council of Zoning Adjustment Board Decision  
Use Permit/Variance #ZP2018-0021  
1722 Walnut Street, Berkeley, CA 94709**

Dear City Clerk,

As local business owners, we strongly object to the decision made by the Zoning Adjustment Board (ZAB) in this case; **it is offensive that this beautiful cottage should be demolished.** We work here in Berkeley and would like to rent a place like this to reduce our significant commutes. We and many others have problems with Berkeley's lack of affordable housing. It is our hope that the City Council will recognize the value of keeping this rent-controlled unit in place.

In summary, we feel that both the Planning Department and ZAB's recommendations and rulings directly contradict their mission to maintain and grow the housing supply, particularly of rent controlled units. Their explanations given for their findings do not support their conclusions and further, the ZAB is not treating this property the same as others in the City of Berkeley. Following a brief summary, I will address each ZAB Finding Conclusion in detail and in order.

The City of Berkeley acknowledges that *Berkeley and Alameda County are in the midst of an unprecedented housing crisis.*<sup>1</sup> And yet, ZAB is insisting the one-bedroom cottage shown below be demolished



despite noting in their own findings that *“the dwelling unit is aesthetically pleasing, and that at its current height and massing, has minimal impact to air, views, or light of the existing or neighboring properties, is within 0.5 miles of Downtown BART, 0.1 miles of the closest bus stop, 0.2 miles of the closest trans-bay bus stop, and 0.2 miles of the closed UC Berkeley shuttle.”*<sup>2</sup>

<sup>1</sup> <https://www.cityofberkeley.info/homeless-entry/>.

<sup>2</sup> ZAB Staff Report for Board Action re 1722 Walnut Street, November 8, 2018.

It was also noted by the ZAB that the zoning rules being applied by the Staff to demand demolition were not in place when the building and shed were built in the early 1900's. As evidenced by fire map records and illustrated by Architect, Catherine Roha, the cottage has existed for 6 years within a footprint barely larger than that of the shed it replaced (and smaller than the shed's concrete pad).

We attended the ZAB November 8<sup>th</sup> meeting. ZAB Staff appeared to have gone out of their way to treat the application by John Stevick differently than others in several ways. In addition to the unsupported and contradictory reasoning in the Planning Department's Findings, the Staff failed to distribute the pictures and information provided as it did for the applicants of other projects at the same meeting. The Staff did not allow the applicant to rebut testimony or provide further comment as it did for other applicants at the same meeting.

ZAB's demand that this cottage be demolished is: (i) a clear physical and monetary stand which contradicts the US Constitution, (ii) an example of the ZAB treating the owners, long time Berkeley residents, differently than other large developers, (iii) a direct contradiction of Berkeley's stated goals of providing housing, and (iv) a lost opportunity to work with an owner to develop smart infill that is aesthetically pleasing, has no impact on neighboring properties, is walkable to public transportation, and, most importantly, helps mitigate the *unprecedented housing crisis* Berkeley states we are in on their own website.<sup>3</sup>

Each of the Planning Department's three findings will now be addressed in detail:

- i. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District.*

The ZAB staff concluded that there are no exceptional or extraordinary circumstances or conditions applying to the land or building. Nothing could be further from the truth. The subject property is unique in that it has a location where an infill unit could and has been added without affecting current residents, impacting adjacent properties, or reducing green space. And it has owners who would be willing to add infill units at their own cost, to provide much needed housing. Further, the ZAB's failure to recognize the added value of the cottage has resulted in a lost opportunity of providing an additional rent-controlled unit to the City of Berkeley. It goes without saying, each and every additional housing unit is desperately needed.

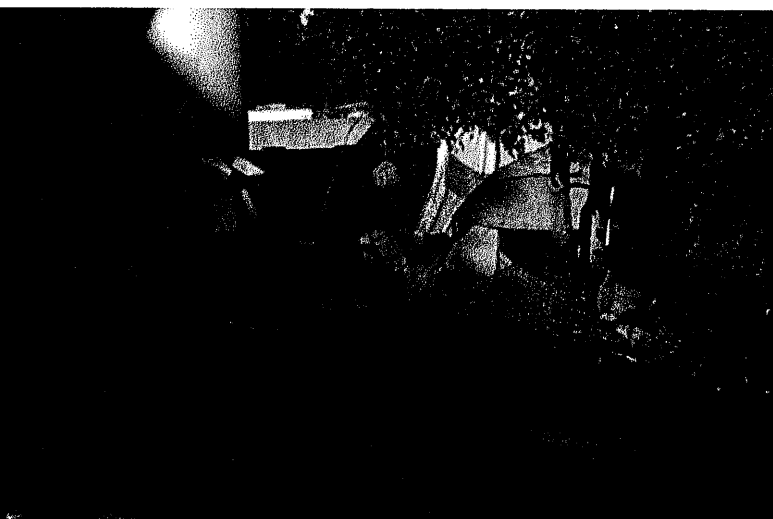
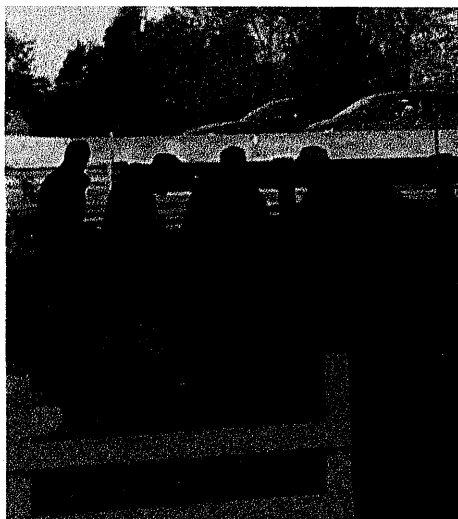
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<sup>3</sup> <https://www.cityofberkeley.info/homeless-entry/>.

The subject building is shown below and is the only commercial residential building with a garden among the adjacent properties. The garden boxed in red:

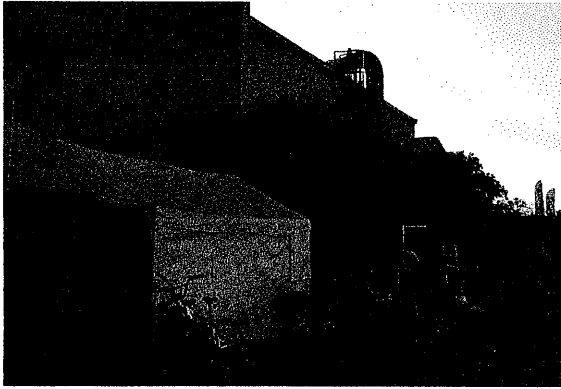


There clearly are exceptional or extraordinary circumstances or conditions, in terms of homelessness. The pictures below were taken in Berkeley on the morning of the ZAB hearing on November 8<sup>th</sup>. Many of these folks could manage to live in an apartment with Section 8 or other assistance.





It is also very important to note that several ZAB board members proudly stated that they would not be able, in good conscience, to eliminate or take any existing rent-controlled units off the market during the November 8<sup>th</sup> meeting. However, when addressing our project, they ruled against keeping the rent-controlled unit in place, a direct contradiction to one of their most important and loudly stated missions.



The ZAB Staff's argument that exceptional or extraordinary circumstances or conditions (e.g. *Berkeley and Alameda County being in the midst of an unprecedented housing crisis*) can be ignored simply because they judge the circumstance to be widespread "in the same District" is both hypocritical and nonsensical. The owners would be more than happy to meet with ZAB to show how the unit was constructed and currently serves as a unique, safe, and habitable home.

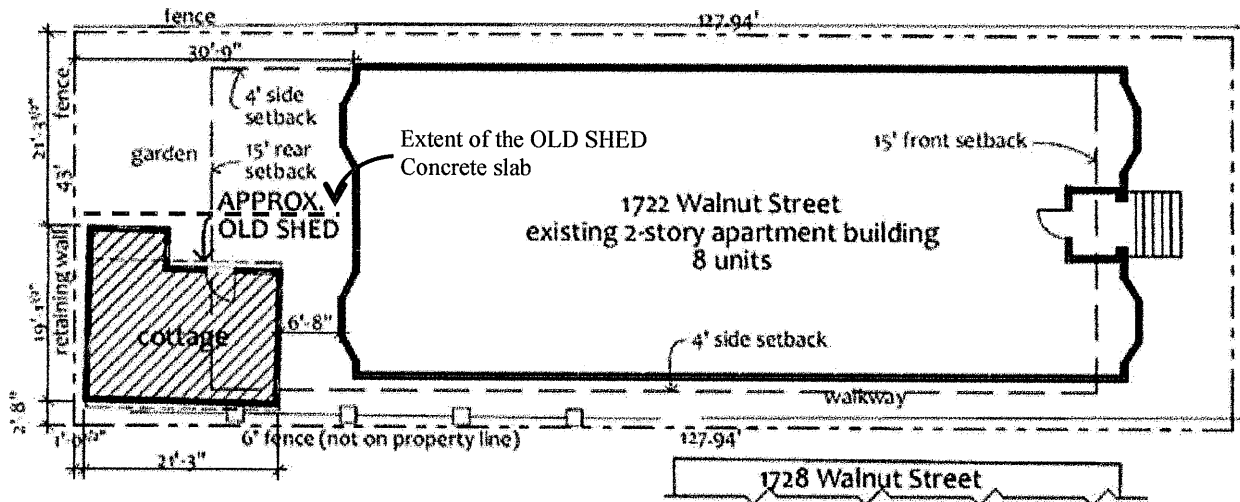
**ii. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner:***

"Staff interprets property rights as a property owner's ability to use his or her property in a manner consistent with the applicable provisions of the Ordinance; the application cannot be used to support any condition that a property is in, or made to be, that is unlawful. Nor is it related to the financial viability or profitability of a property." The Planning Department Staff states they have restricted their interpretation of property rights to be confined to the provisions of "the Ordinance," which flies in the face of the U.S. Constitution. This is clearly a physical and monetary taking of the owner's property. Staff also ignored the owner's other stated use and enjoyment of the subject property, which is providing much needed housing.

**iii. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole.***

In regards to this Finding, Staff initially states: "One of the purposes of the R-4 District is to *"Make available housing for persons who desire both convenience of location and a reasonable amount of Useable Open Space."* Then illogically concludes "this Finding cannot be made," because

of coverage and parking conditions. As was noted by ZAB member Clarke, the coverage has not significantly changed as the cottage essentially takes up the same space as the shed that has been in existence since the building was constructed in the early 1900's (we believe 1917), see the plan view below:



The building was constructed within the applicable rules and laws of the time. The cottage barely extends beyond the footprint of the pre-existing shed and is well within the original concrete pad of the shed. **The garden size is actually larger than it was previously** as the shed included an eight foot wide uncovered concrete slab in front of it that was removed. And as shown above, this garden is the only green area among the adjacent commercial rental properties.

During the previous applicant's (John Stevick) application preparation, he personally canvassed the many multi-residential buildings within 300 feet of the subject property. Every conversation he had was concluded with a signature of support. He did not run into a single criticism of the existing cottage. The one and only request presented to him in order to secure support was a letter from the owners of the 84-unit building immediately west expressing support so long as the owners agree that future costs incurred to maintain the retaining wall between the two properties be split. As no objections to the cottage's existence have been presented, we ask that the cottage be legalized as its presence does not impact anyone.

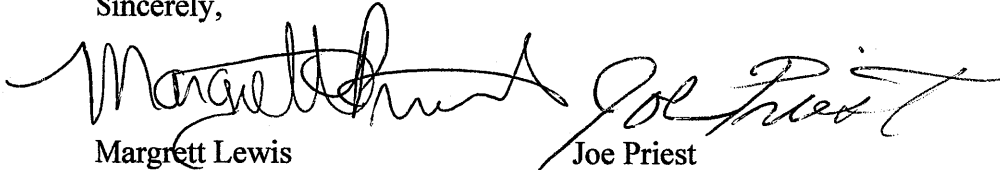
In regards to treating property owners equally, Berkeley has approved the building of two two-story units on the concrete parking lot of 1728 Walnut Street. In regards to parking, the ZAB staff has noted *"the dwelling unit [cottage] is aesthetically pleasing, and that at its current height and massing, has minimal impact to air, views, or light of the existing or neighboring properties, is within 0.5 miles of Downtown BART, 0.1 miles of the closest bus stop, 0.2 miles of the closest trans-bay bus stop, and 0.2 miles of the closed UC Berkeley shuttle."*<sup>4</sup> Few of the tenants in this area actually own cars or need a parking spot. One of Berkeley's stated goals is to reduce driving, congestion and greenhouse gases produced by automobiles.

We are also of the understanding that if 1722 Walnut Street were to be a completely empty lot today, the subject property could be approved for the development of 19 or more units, many more than what currently exists on the property. This appears to me as one of the most important realities to note. If the lot itself would support additional housing units under current state and local codes, legalization of the cottage should be granted.

<sup>4</sup> ZAB Staff Report for Board Action re 1722 Walnut Street, November 8, 2018.

In summary, this aesthetically pleasing cottage has no negative impacts on neighboring properties, is situated very close to public transportation eliminating the need for parking, and would continue providing a home to Berkeley residents. I fully hope the Council reconsiders the ZAB's demand for demolition.

Sincerely,



Margrett Lewis

Joe Priest

### **A list of facts and statements for consideration:**

- The ZAB written explanations are not, in our opinion, accurate. The Planning Department's Findings should have concluded this unit could be allowed.
- The ZAB board's verbal comments: "this cottage has no negative impacts to the community and only adds to the housing supply and aesthetic appeal of the neighborhood."
- Several ZAB board members stated that they would not be able, in good conscience, to eliminate or take any existing rent-controlled units off the market during the November 8<sup>th</sup> meeting. However, when addressing this project, they ruled against keeping the rent-controlled unit.
- It was stated by the ZAB that the zoning rules now being applied by the Staff to demand demolition were **not** in place when the building and shed were built in the early 1900's.
- The cottage has existed for 6 years within the footprint of the shed it replaced, in this exact location (as evidenced by fire map records and illustrated by Architect, Ms. Catherine Roha, it is smaller than the shed's concrete pad.
- The November 8<sup>th</sup> staff findings did not support their conclusions and further, the ZAB treated this property differently than others in the City of Berkeley.
- Staff failed to distribute the pictures and substantial information provided, for this applicant, as it did for the applicants of other projects at the same meeting.
- ZAB staff stated that there are no exceptional or extraordinary circumstances or conditions applying to the land or building. Nothing could be further from the truth. The Board members stated that it does have historical precedence. The subject property is unique in that it has a location where an infill unit could and has been added without affecting current residents, impacting adjacent properties, or reducing green space.
- The owners added an infill unit without any negatives at their own cost, to provide much needed housing. During the previous applicant's (John Stevick) application preparation, he personally canvassed the many multi-residential buildings within 300 feet of the subject property. Every conversation he had was concluded with a signature of support. He did not run into a single criticism of the existing cottage. The one and only request presented to him in order to secure support was a letter from the owners of the 84-unit building immediately west expressing support so long as the owners agree that future costs incurred to maintain the retaining wall between the two properties be split. As no objections to the cottage's existence have been presented, we ask that the cottage be legalized as its presence does not impact anyone. (This was not acknowledged at November 8<sup>th</sup> ZAB meeting).
- Further, the ZAB's failure to recognize the added value of the cottage has resulted in a lost opportunity of providing an additional rent-controlled unit to the City of Berkeley.



Planning and Development Department  
Land Use Planning Division

## MEMORANDUM

DATE: November 7, 2018

TO: Zoning Adjustments Board

FROM: Leslie Mendez, Senior Planner

SUBJECT: Use Permit/Variance ZP2018-0021 1722 Walnut Street: Corrections to Staff Report and Findings (Attachment 1)

Staff was made aware that both the staff report and Findings (Attachment 1) that were published in the packet for the above referenced project (Use Permit/Variance ZP2018-0021) were not the final versions.

Below are track change revisions to the staff report. Added text is underlined and deleted text is ~~strikethrough~~.

- On page 8 of the staff report, the final paragraph under Section V. B. Finding #2 should be deleted as follows:

~~*Under the existing legal condition (i.e. eight dwelling units). In addition, is naturally limited to what is lawful (i.e. what zoning allows), and In conclusion, the applicant has not provided evidence that the use of the property in its permitted condition does not preserve the owner's substantial property rights. This finding cannot be made.*~~

- The final paragraph under Section V.B. on page 9 of the staff report should be as follows:

*In summary, the required Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project would be generally detrimental (Finding 3).*

The Findings sent out with the packet had the incorrect date, as well as included Conditions that are inapplicable to staff's recommendation to deny the project. For clarification, the corrected Attachment 1 document is attached.



# Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION  
NOVEMBER 8, 2018

## 1722 Walnut Street

**Use Permit/Variance #ZP2018-0021 to permit a ninth dwelling unit on a lot with an existing two-story, eight unit apartment building.**

### I. Background

#### A. Land Use Designations:

- General Plan: HDR – High Density Residential
- Zoning: R-4 – Multi-Family Residential

#### B. Zoning Permits Required:

- Use Permit to construct a new dwelling unit, under BMC Section 23D.40.030
- Administrative Use Permit (AUP) to reduce the rear yard setback for two or more Main Buildings which contain dwelling units under BMC 23D.40.070.D.1
- Administrative Use Permit (AUP) to reduce the required building separation between two or more main building that contain dwelling units under BMC 23D.40.070.D.2
- Variance to decrease the required left side yard setback below minimum requirement per BMC 23D.40.070.D
- Variance to further increase the non-conforming lot coverage over the maximum requirement per BMC 23D.40.070.E
- Variance to not provide and to further decrease the non-conforming Useable Open Space per dwelling below the minimum requirement per BMC 23D.40.070.F
- Variance to not provide the minimum parking requirement (one space) for a new dwelling unit per BMC 23D.40.080.A

**C. CEQA Determination:** Categorically exempt pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).

#### D. Parties Involved:

- Applicant                      John Stevick, 1636 Walnut Street, Berkeley, CA 94709
- Property Owner              Elizabeth Scherer and Glen Stevick, 1636 Walnut Street, Berkeley, CA 94709

Figure 1: Vicinity Map

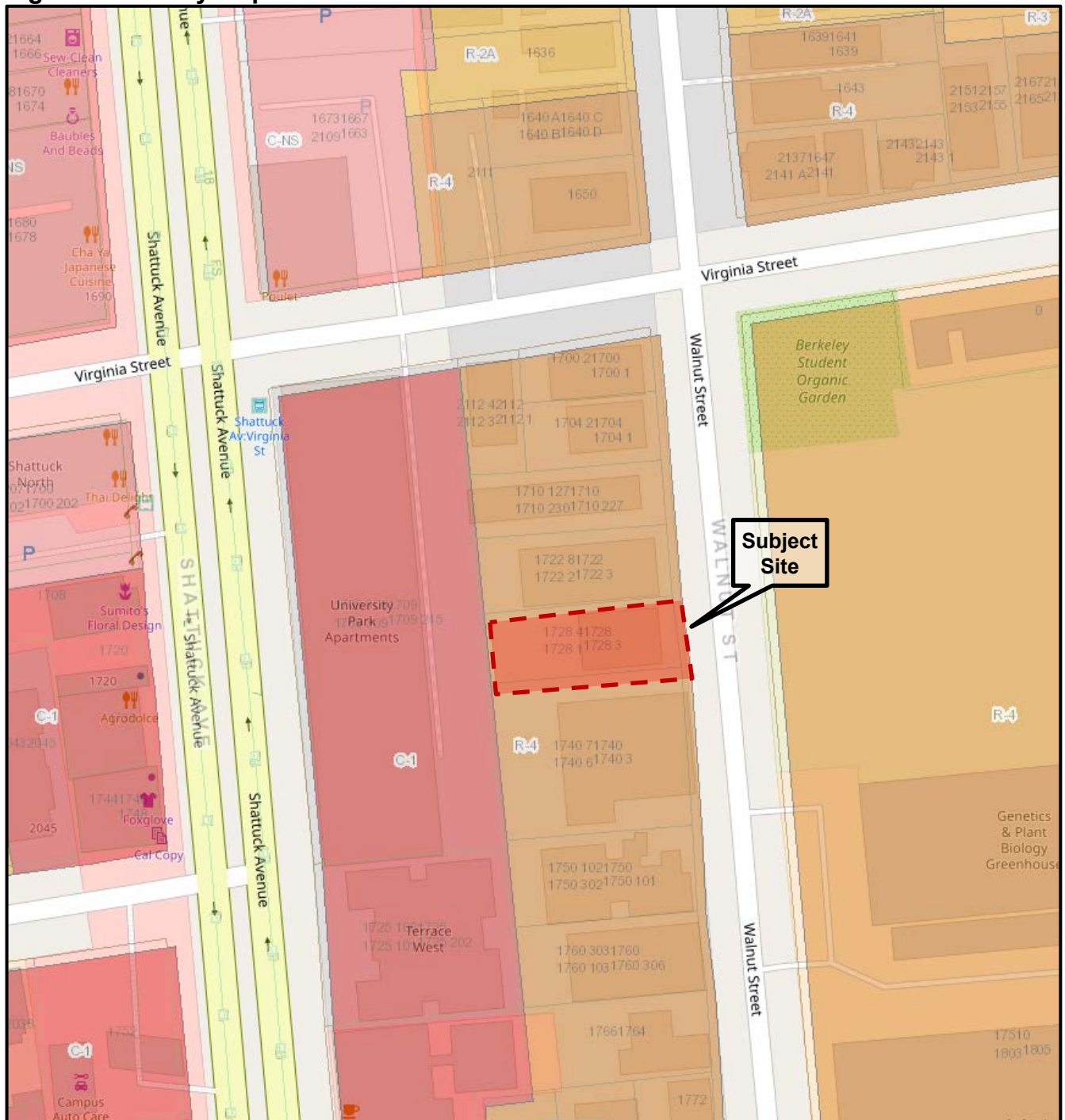
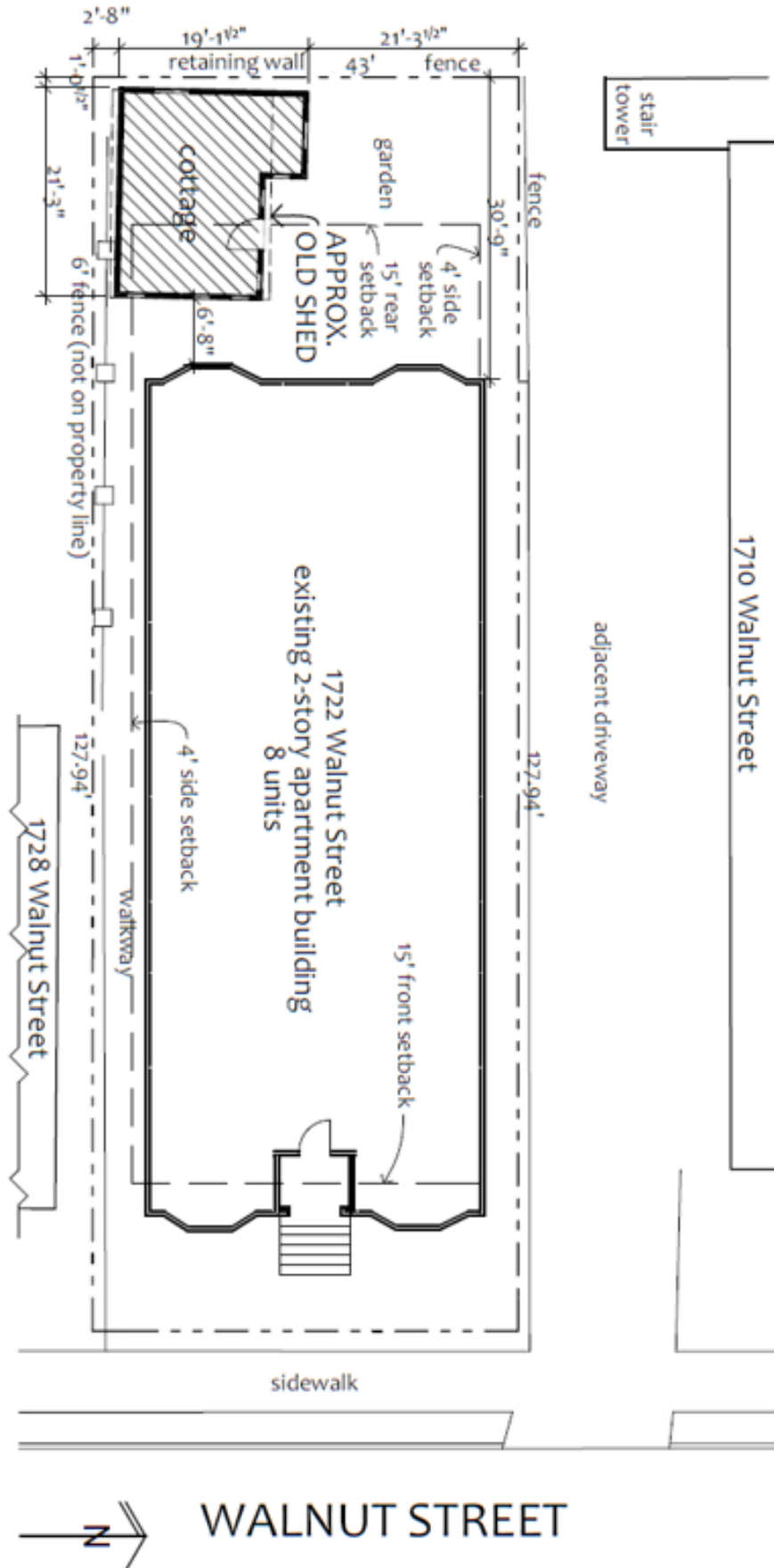


Figure 2: Proposed Site Plan



**Table 1: Land Use Information**

| Location               |       | Existing Use                                 | Zoning District | General Plan Designation |
|------------------------|-------|----------------------------------------------|-----------------|--------------------------|
| Subject Property       |       | Multi-Family                                 | R-4             | High Density Residential |
| Surrounding Properties | North | Multi-Family                                 | R-4             | High Density Residential |
|                        | South | Multi-Family                                 | R-4             | High Density Residential |
|                        | East  | Research, Laboratory<br>(Oxford Tract Farm)  | R-4             | High Density Residential |
|                        | West  | Multi-Family<br>(University Park Apartments) | C-1             | Avenue Commercial        |

**Table 2: Special Characteristics**

| Characteristic                                                                 | Applies to Project? | Explanation                                                                                                               |
|--------------------------------------------------------------------------------|---------------------|---------------------------------------------------------------------------------------------------------------------------|
| Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065) | No                  | As a project constructing less than five new dwelling units, this applies to the project.                                 |
| Housing Accountability Act (Gov't Code Section 65589.5)                        | Yes                 | As a project use of residential units the HAA applies to the project.                                                     |
| Creeks                                                                         | No                  | There are no creeks in or around the project.                                                                             |
| Density Bonus                                                                  | No                  | The project is requesting a Density bonus.                                                                                |
| Historic Resources                                                             | No                  | The project site does not contain a City Landmark or a known historic resource.                                           |
| Oak Trees                                                                      | No                  | There are no oak trees on the site.                                                                                       |
| Rent Controlled Units                                                          | Yes                 | The eight units in the apartment building are subject to rent control.                                                    |
| Residential Preferred Parking (RPP)                                            | Yes                 | The project site is in RPP Zone F.                                                                                        |
| Seismic Hazards (SHMA)                                                         | No                  | The site is not located in a seismic hazard zone.                                                                         |
| Soil/Groundwater Contamination                                                 | No                  | There is no history of ground water contamination on the site and it is not located in the Environmental Management Area. |
| Transit                                                                        | Yes                 | AC Transit and UC Berkeley Shuttle lines run on Shattuck Avenue and Hearst Avenue, both one block from the project site.  |

**Table 3: Project Chronology**

| Date              | Action                               |
|-------------------|--------------------------------------|
| January 29, 2018  | Application submitted                |
| September 5, 2018 | Application deemed complete          |
| October 25, 2018  | Public hearing notices mailed/posted |
| November 8, 2018  | ZAB hearing                          |



**Table 4: Development Standards**

| Standard<br>BMC Sections 23D.40.070-080 |                   | Existing                      | Proposed Total             | Permitted/<br>Required                                                                                                                                             |
|-----------------------------------------|-------------------|-------------------------------|----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Lot Area (sq. ft.)                      |                   | 5,479                         | No change                  | 5,000 min                                                                                                                                                          |
| Gross Floor Area (sq. ft.)              |                   | 5,800                         | 6,146                      | n/a                                                                                                                                                                |
| Dwelling Units                          | Total             | 8                             | 9                          | n/a                                                                                                                                                                |
|                                         | Below Market Rate | 0                             | 0                          | 0 min                                                                                                                                                              |
| Building Height                         | Average (ft.)     | Apartment: 29                 | Cottage: 11.25             | 35 max<br>65 w/UP                                                                                                                                                  |
|                                         | Maximum (ft.)     | Apartment: 30                 | Cottage: 11.25             | n/a                                                                                                                                                                |
|                                         | Stories           | Apartment: 2                  | Cottage: 1                 | 3 max<br>6 w/UP                                                                                                                                                    |
| Building<br>Setbacks (ft.)              | Front             | <b><i>Apartment: 11.7</i></b> | Cottage: 105               | 15 min                                                                                                                                                             |
|                                         | Rear              | Apartment: 31                 | Cottage: 1                 | 15 min<br>AUP to reduce on lot w/ two or<br>more buildings containing dus                                                                                          |
|                                         | Left Side         | Apartment: 5.2                | <b><u>Cottage: 2.2</u></b> | 1st-2 <sup>nd</sup> story: 4 min<br>3 <sup>rd</sup> story: 6 min<br>4 <sup>th</sup> story: 8 min<br>5 <sup>th</sup> Story: 10 min<br>6 <sup>th</sup> story: 12 min |
|                                         | Right Side        | <b><i>Apartment: 3.4</i></b>  | Cottage: 21.3              |                                                                                                                                                                    |
| Lot Coverage (%)                        |                   | <b>60</b>                     | <b><u>61</u></b>           | 45 max<br>(for 2 stories)                                                                                                                                          |
| Usable Open Space (sq. ft.)             |                   | <b>1,098</b>                  | <b><u>990</u></b>          | 1,800 min<br>(200 per du)                                                                                                                                          |
| Automobile Parking                      |                   | <b>0</b>                      | <b><u>0</u></b>            | 9 min<br>(1 per du)                                                                                                                                                |

Items in ***bold italics*** are existing, lawful, non-conforming conditions.

Items in **underlined bold 11 pt. font** are requested Variances.

## II. Project Setting

**A. Neighborhood/Area Description:** The property is located approximately one quarter mile to the northwest of the UC Berkeley campus in an area bound by Shattuck Avenue to the west, Virginia Street to the north, Oxford Street to the east, and Delaware Street to the south. The neighborhood is a combination of commercial businesses along Shattuck Avenue, and numerous multi-family and mid-size (two- to four-story) multi-family buildings along Walnut Street. A large area is dedicated to the Oxford Tract Farm and greenhouses to the east. AC Transit lines 7, 18, and FS run along Shattuck Avenue, and line 67 runs along Oxford Street.

**B. Site Conditions and Background:** The project site is a 5,479-square-foot, rectangular (43' x 127.42') parcel that is developed with an approximately 6,000-square-foot, two-story, eight-unit apartment building that was constructed in 1926. No off-street parking exists on the site. Approximately six years ago, the property owners built a detached cottage (i.e. dwelling unit) without permits in the southwestern (rear left) corner of the property in a location where a shed had been located. The cottage is registered with the Rent Stabilization Board (RSB) along with an unpermitted

basement unit, listed on the RSB website as “Not Available for Rent since 8/1/2017” (<https://www.cityofberkeley.info/RentBoardUnitSearch.aspx>).

As early as 2016, the cottage was listed on Airbnb along with at least five other of the apartments in the main building (see Attachment 4). As the listings are for stays of a minimum of at least 14 days, they do not qualify as short term rentals. Staff raises this point as the applicant statement alludes to the region’s housing crisis. The applicant has written, “The rear cottage in question in a small one-bedroom unit that not only adds to the beauty of the backyard, but to the housing supply as well. As the area is in such short supply of housing, we would very much like to see this unit, which has already been in use for the past six years, be allowed to stay on the market.” Staff wishes to make clear from the current availability of the unit(s) as shown on the Airbnb site, as well as the frequency of the reviews, that these units are not being used as housing for families, or even for students during the school year; the use is more akin to an extended stay hotel.

### III. Project Description

After receiving a Notice of Violation from the Neighborhood Services Enforcement Division (Code Enforcement) in November 2017, the property owners submitted the current project application to the Planning Department for retroactive approval of the ninth dwelling unit on the property. The dwelling unit is located in the 354-square-foot, 11.25-foot tall detached one-bedroom cottage in the rear yard area.

### IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting this application to the city in January 2018, the applicant installed a pre-application poster at the project site. On October 25, 2018, the City mailed public hearing notices to interested neighborhood organizations, and to property owners and occupants within 300 feet of the project site, and staff posted notices within the neighborhood at three locations.

At the time of this writing, staff has received public comment over the phone from a long time resident of the property, Lisa Klug. She stated that the property seems like a hotel now with people coming in and out; that her name is the only one left on the mailboxes as other residents are transient; that the property owner has offered to buy her out twice, but she turned down the offer; and that the cottage is taking up a large part of the rear yard area. The resident mentioned as a disclosure that she is currently in a lawsuit with the property owner. Ms. Klug subsequently submitted correspondence in opposition to the project that can be found in Attachment 5.

**B. Committee Review:** This project is not subject to committee review.

## V. Issues and Analysis

- A. The Housing Accountability Act:** The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with the applicable, objective General Plan and Zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:
- (1) The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
  - (2) There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

There are multiple aspects of the proposed development project that do not meet the base regulatory standards of the BMC: 1) off street parking; 2) usable open space; 3) lot coverage; 3) side and rear yard setbacks; and 4) building-to-building separation. Therefore, §65589.5(j) **does not apply** to this project as currently proposed.

- B. Variances:** The project would require four Variances from the development standards of the R-4 District: (1) to permit a 2.2-foot side yard setback where a minimum of 4 feet is required for a first story (BMC 23D.40.070.D); (2) to not provide the required off-street parking for the new dwelling (BMC 23.D.40.080.A); (3) to further increase the existing non-conforming 60% lot coverage to 61% where a maximum of 45% is permissible for a property with a two-story building (BMC 23D.40.070.E); and (4) to not provide the required Useable Open Space and further reduce the existing non-8

Finding #1: There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District.

In support of this Finding the applicant has provided the following evidence:

*“This building is within 0.5 miles of Downtown BART, 0.1 miles of the closes bus stop, 0.2 miles of the closest trans-bay bus stop, and 0.2 miles of the closed UC Berkeley shuttle. The existing cottage in question has been in existence for over 6 years and serves a relaxing and tranquil respite from the 4+ story buildings surround it and the greater and ever expanding Downtown Berkeley.”*

Although the statements, some subjective, may be true, they do not highlight how they represent exceptional or extraordinary circumstance applying to this property that do not generally apply to other properties in the same zoning district. In fact, access to the existing transportation system applies to all the properties in the vicinity. Staff also does not believe that the existence of the illegal unit qualifies as an exceptional or extraordinary condition as any property owner could follow through with unpermitted development. In addition, staff cannot identify any other exception or extraordinary condition on the site that support this Finding to permit non-compliance with the development standards that apply to all other properties within the District. This finding cannot be made.

Finding #2: The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner.

In support of this Finding, the applicant provided the following evidence:

*"The surrounding neighborhood is very dense relative to the majority of Berkeley and becoming increasingly so each year with new, large-scale mixed use projects continuing to go up. We are simply asking for the same kind of coverage that neighboring lots enjoy on the very same block. Many other buildings in the immediate vicinity are over density as can be seen by referring to the attached vicinity map."*

Due to the age of buildings and the various changes made over time to the Zoning Ordinance, many buildings and sites are non-conforming in this District to varying degrees, including the subject site. This statement, however, does not address the required finding. Staff interprets property rights as a property owner's ability to use his or her property in a manner consistent with the applicable provisions of the Ordinance; the application cannot be used to support any condition that a property is in, or made to be, that is unlawful. Nor is it related to the financial viability or profitability of a property. The applicant has not provided evidence that the use of the property with its unpermitted condition is necessary for the preservation and enjoyment of substantial property rights. In fact, the property owners purchased, and have managed, a property with eight lawful, rental dwelling units for several years. This finding cannot be made.

Under the existing legal condition (i.e. eight dwelling units). In addition, is naturally limited to what is lawful (i.e. what zoning allows), and In conclusion, the applicant has not provided evidence that the use of the property in its permitted condition does not preserve the owner's substantial property rights. This finding cannot be made.

Finding #3: The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole.

In support of this Finding, the applicant has submitted the following evidence:

*"It is our pleasure to provide an additional safe and habitable living space within walking distance of Downtown Berkeley and UC Berkeley campus. We find that the cottage actually enhances the backyard aesthetic and compliments [sic] the garden for all property residents in comparison to the dilapidated shed that stood in the cottages place before."*

Staff agrees that the dwelling unit is aesthetically pleasing, and that at its current height and massing, has minimal impact to air, views, or light of the existing or neighboring properties. In addition, if the project were to be approved, the project would be conditioned to obtain a building and occupancy permit ensuring compliance with all current building and fire codes, thereby removing any potential life/safety impacts to

adjacent properties as well as guests and residents of the subject property. However, one of the purposes of the R-4 District is to “*Make available housing for persons who desire both convenience of location and a reasonable amount of Useable Open Space.*” The project site is currently non-conforming for Useable Open Space and exceeds allowable lot coverage, the proposed project exacerbates both these conditions. The project, therefore, also conflicts with the purposes of the Zoning Ordinance in that it exceed the appropriate intensity of development of land and buildings through excessive lot coverage (BMC 23A.04.030.C) and it does not provide for adequate usable open space, off-street parking (BMC 23A.04.030.E). This Finding cannot be made.

Finding #4: Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.

This Finding is not applicable to the Variance requests.

In summary, the required Variances to approve the illegal dwelling cannot be made as there is no exceptional circumstance on the property (Finding 1), the variance is not necessary for the preservation of substantial property rights (Finding 2), and the project be generally detrimental (Finding 3),

**C. Reduction of Rear Yard Setback and Building to Building Separation:** The project proposes a 1-foot rear yard setback where a minimum of 15 feet is required and proposes a 6.75-foot building to building separation, where a minimum of 8 feet is required. Section 23D.40.070.1 and 2 of the Zoning Ordinance, allow both the rear yard and the building separation to be reduced with approval of an Administrative Use Permit (AUP) for two or more Main Buildings which contain Dwelling Units as applies to the subject project. In addition, as described in Variance Finding 3 above, in its current location, the cottage does not have detrimental impacts to air, light, or views. The findings to approve these reductions in the development standards can be made.

## VI. Recommendation

Because of the project’s inconsistency with the Zoning Ordinance and General Plan, staff recommends that the Zoning Adjustments Board

**DENY** Use Permit/Variance #ZP2018-0021 pursuant to Section 23B.32.040 and subject to the attached Findings (see Attachment 1).

### Attachments:

1. Findings
2. Project Plans, dated April 18, 2018
3. Notice of Public Hearing
4. Airbnb Listings, downloaded October 18, 2018
5. Correspondence Received (at the time of publication of this report)

**Staff Planner:** Leslie Mendez, LMendez@cityofberkeley.info, (510) 981-7426



Planning and Development Department  
Land Use Planning Division

Our ref.: PLN2017-0007

April 3, 2017

John Stevick  
1636 Walnut St.  
Berkeley, CA 94709

Dear Mr. Stevick,

**RE: Zoning Research Letter – 1722 Walnut St., Berkeley, 058 217700600**

This letter responds to your request for a Zoning Research Letter for the property with the above address. The following letter provides zoning information and the aforementioned address.

**1) CURRENT ZONING**

This property is located in the Multi-Family Residential District (R-4). The property is subject to all applicable provisions in Berkeley Municipal Code Chapter 23D.40 (see attachment 1).

**2) PROPERTY HISTORY**

The City's Finance Card indicates the construction of a two-story, eight-unit apartment building on this site; there is no note of a garage (see attachment 2). City Staff has reviewed zoning permit and building permit files for the property and have found no record approving or otherwise of a structure in the southwest corner. While the Sanborn Insurance map shows an auto garage at the southwest corner of the lot, again, it is not found in any City records and it is unclear how this garage would be accessed.

In 1989 a permit was granted to increase height of building from three stories to four stories and 38.5 feet. However, this was not exercised and the City has no records of building permits.

**3) LEGAL USE OF THE SUBJECT PROPERTY**

Based on the information available to the department, the legal use of the subject property is a two-story apartment with four units on the first floor, and four units on the second floor (total of eight legal dwelling units).

**4) ACCESSORY DWELLING UNIT (ADU)**

An ADU is defined in Berkeley Municipal Code Section 23.F.04.010 as follows: A second unit on a lot which is occupied by one Single Family Dwelling and zoned single family residential (R-1), or a unit approved under the provisions for Accessory Dwelling Units on a lot which is occupied by one Single Family Dwelling and zoned R-1A, R-2, R-2A, R-3, R-4, R-5, R-S OR R-SMU. The property is zoned as R-4 and contains an eight-unit apartment building, and is not eligible for an ADU.

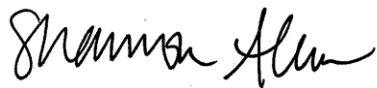
**5) CONFORMING WITH CURRENT ZONING REQUIREMENTS**

To legalize the “rental cottage” as a dwelling unit, a Use Permit with Public Hearing would be required; to legalize this as a storage structure, a Zoning Certificate would be required. However, the project site and new structure is subject to the development standards listed in BMC 23D.40.070, which includes height limits, building setbacks, building separations, lot coverage and open space per dwelling unit. If certain standards cannot be met, in some instances they may be reduced subject to an Administrative Use Permit. However, some standards, such as lot coverage, can only be modified with a Variance. Please refer to BMC Chapter 23B.44, Variances, for information on the application and hearing process as well as the Findings that are required. Please note that Variance Findings are often difficult to make.

The determinations in this letter are based on a review of the facts available to me at this time, excepting additional information that may become available in the future. While this letter is true to the best of my knowledge, it shall not be considered legally binding in any way.

If you have additional questions, please contact Camille Jackson with Land Use Planning Division by calling him directly at (510) 981-7471

Sincerely,



Shannon Allen, AICP, Principal Planner

Prepared by Camille Jackson, Land Use Planning Division Intern

Attachments (2)

Attachment-1 Multi-Family Residential District Provisions

Attachment -2 Finance Card

**Chapter 23D.40**

**R-4 MULTI-FAMILY RESIDENTIAL DISTRICT PROVISIONS**

**Sections:**

- 23D.40.010      Applicability of Regulations**
- 23D.40.020      Purposes**
- 23D.40.030      Uses Permitted**
- 23D.40.040      Special Provisions -- Design Review**
- 23D.40.050      Reserved**
- 23D.40.060      Reserved**
- 23D.40.070      Development Standards**
- 23D.40.080      Parking -- Number of Spaces**
- 23D.40.090      Findings**

**Section 23D.40.010      Applicability of Regulations**

The regulations in this Chapter shall apply in all R-4 Districts. In addition, the general provisions in Sub-title 23C shall apply. Where the H District overlays a property so as to be classified R-4(H), the Hillside District provisions of Chapter 23E.96 shall also apply. (Ord. 6478-NS § 4 (part), 1999)

**Section 23D.40.020      Purposes**

The purposes of the Multi-family Residential (R-4) Districts are to:

- A. Implement Master Plan policy by encouraging development of relatively high density residential areas;
- B. Make available housing for persons who desire both convenience of location and a reasonable amount of Usable Open Space;
- C. Protect adjacent properties from unreasonable obstruction of light and air;
- D. Permit the construction of residential structures, such as residential hotels, and hotels, which will provide housing opportunities for transient or seasonal residents;
- E. Permit the construction of institutional and office uses when such will not be detrimental to the immediate neighborhood. (Ord. 6478-NS § 4 (part), 1999)

**Section 23D.40.030      Uses Permitted**

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

| <i>Table 23D.40.030</i>         |                       |                                      |
|---------------------------------|-----------------------|--------------------------------------|
| <b>Use and Required Permits</b> |                       |                                      |
| <b>Use</b>                      | <b>Classification</b> | <b>Special Requirements (if any)</b> |
| <b>Uses Permitted</b>           |                       |                                      |
| Child Care Centers              | UP(PH)                |                                      |
| Clubs, Lodges                   | UP(PH)                |                                      |



| <i>Table 23D.40.030 (Continued)</i>                                                                                                                                                                                        |                             |                                                                                                                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>Use and Required Permits</b>                                                                                                                                                                                            |                             |                                                                                                                        |
| <b>Use</b>                                                                                                                                                                                                                 | <b>Classification</b>       | <b>Special Requirements (if any)</b>                                                                                   |
| Community Care Facilities/Homes<br>Changes of Use<br>New Construction                                                                                                                                                      | ZC<br>UP(PH)                | Subject to parking requirements. See Section 23D.40.080.A                                                              |
| Community Centers                                                                                                                                                                                                          | UP(PH)                      |                                                                                                                        |
| Dwelling Units, Single-family, Duplex, or Multi-Family, subject to R-4 Standards<br><br>Residential Additions (up to 15% of lot area or 600 square feet, whichever is more restrictive)<br><br>Major Residential Additions | UP(PH)<br><br>ZC<br><br>AUP | See Section 23D.40.070 for restrictions.<br><br>See definition in Sub-title F. Denial subject to Section 23D.40.090.B. |
| Group Living Accommodations subject to R-4 standards                                                                                                                                                                       | UP(PH)                      |                                                                                                                        |
| Hospitals                                                                                                                                                                                                                  | UP(PH)                      | Subject to parking requirements. See Section 23D.40.080.A                                                              |
| Hotels                                                                                                                                                                                                                     | UP(PH)                      | Subject to parking requirements; see Section 23D.40.080.A. Also subject to Design Review; see Section 23D.40.040       |
| Libraries                                                                                                                                                                                                                  | UP(PH)                      | Subject to parking requirements. See Section 23D.40.080.A                                                              |
| Nursing Homes                                                                                                                                                                                                              | UP(PH)                      | Subject to parking requirements. See Section 23D.40.080.A                                                              |
| Offices                                                                                                                                                                                                                    | UP(PH)                      | Subject to parking requirements. See Section 23D.40.080.A. Also subject to design review; see Section 23D.40.040.      |
| Parking Lots                                                                                                                                                                                                               | UP(PH)                      | Subject to Section 23D.12.090                                                                                          |
| Parks and Playgrounds                                                                                                                                                                                                      | ZC                          |                                                                                                                        |
| Public Safety and Emergency Services                                                                                                                                                                                       | UP(PH)                      |                                                                                                                        |
| Religious Assembly Uses                                                                                                                                                                                                    | UP(PH)                      |                                                                                                                        |
| Schools, Public or Private                                                                                                                                                                                                 | UP(PH)                      |                                                                                                                        |
| Senior Congregate Housing<br>Six or fewer persons<br>Seven or more persons<br>New Construction                                                                                                                             | ZC<br>AUP<br>UP(PH)         | Changes of use from an existing dwelling unit                                                                          |
| <b>Accessory Uses and Structures</b>                                                                                                                                                                                       |                             |                                                                                                                        |
| Accessory Buildings or Structures                                                                                                                                                                                          | ZC                          | Must satisfy the requirements of Chapter 23D.08                                                                        |
| If has either habitable space and/or exceeds the requirements under Chapter 23D.08                                                                                                                                         | AUP                         |                                                                                                                        |
| When located on a vacant lot without a Main Building                                                                                                                                                                       | AUP                         |                                                                                                                        |
| Accessory Dwelling Units in compliance with Section 23D.10.040                                                                                                                                                             | ZC                          |                                                                                                                        |

| <i>Table 23D.40.030 (Continued)</i>                                                      |                       |                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Use and Required Permits</b>                                                          |                       |                                                                                                                                                                                                                                               |
| <b>Use</b>                                                                               | <b>Classification</b> | <b>Special Requirements (if any)</b>                                                                                                                                                                                                          |
| Accessory Dwelling Unit which does not comply with requirements under Section 23D.10.040 | AUP                   | Subject to making of applicable findings set forth in Section 23D.10.060                                                                                                                                                                      |
| Child Care, Family Day Care                                                              |                       |                                                                                                                                                                                                                                               |
| Small Family Day Care Homes of eight or fewer children                                   | ZC                    |                                                                                                                                                                                                                                               |
| Large Family Day Care Homes of nine to 14 children                                       | AUP                   |                                                                                                                                                                                                                                               |
| Fences                                                                                   |                       |                                                                                                                                                                                                                                               |
| Six ft. or less in height                                                                | ZC                    |                                                                                                                                                                                                                                               |
| Exceeding six ft. in height                                                              | AUP                   | In required setbacks                                                                                                                                                                                                                          |
| Home Occupations                                                                         |                       |                                                                                                                                                                                                                                               |
| Low Impact                                                                               | ZC                    | If the requirements of Section 23C.16.020 are met                                                                                                                                                                                             |
| Moderate Impact, teaching-related                                                        | AUP                   | Subject to the requirements of Section 23C.16.030.A                                                                                                                                                                                           |
| Moderate Impact                                                                          | UP(PH)                | Subject to the requirements of Section 23C.16.030.B                                                                                                                                                                                           |
| Hot Tubs, Jacuzzis, Spas                                                                 | AUP                   | See Section 23D.08.060.C                                                                                                                                                                                                                      |
| Stables for Horses                                                                       | AUP                   |                                                                                                                                                                                                                                               |
| Stores and Shops (Incidental to another Use)                                             | UP(PH)                | Contained within a building with no street access and no displays or merchandise visible from the street                                                                                                                                      |
| <b>Miscellaneous Uses</b>                                                                |                       |                                                                                                                                                                                                                                               |
| Cemeteries, Crematories, Mausoleums                                                      | Prohibited            |                                                                                                                                                                                                                                               |
| Columbaria                                                                               | AUP                   | Allowed with a ZC if incidental to a Community and Institutional Use, limited to 400 niches, and no more than 5% of the subject property area. When located outside of the main building columbaria structures are subject to Chapter 23D.08. |
| Commercial Excavation                                                                    | UP(PH)                | Including earth, gravel, minerals, or other building materials including drilling for, or removal of, oil or natural gas                                                                                                                      |
| Emergency Shelter                                                                        |                       | Such shelters may operate only during the wet weather season from November 15 through April 15. See Chapter 23C.10.                                                                                                                           |
| Up to 15 beds                                                                            | ZC                    |                                                                                                                                                                                                                                               |
| More than 15 beds                                                                        | UP(PH)                |                                                                                                                                                                                                                                               |
| Public Utility Substations, Tanks                                                        | UP(PH)                |                                                                                                                                                                                                                                               |
| Wireless Telecommunications Facilities                                                   |                       |                                                                                                                                                                                                                                               |
| Microcell Facilities                                                                     | AUP                   | Subject to the requirements and findings of Section 23C.17.100                                                                                                                                                                                |
| All Other Telecommunication Facilities                                                   | UP                    | Subject to the requirements and findings of Section 23C.17.100                                                                                                                                                                                |

|                                     |                                               |                                      |
|-------------------------------------|-----------------------------------------------|--------------------------------------|
| <i>Table 23D.40.030 (Continued)</i> |                                               |                                      |
| <b>Use and Required Permits</b>     |                                               |                                      |
| <b>Use</b>                          | <b>Classification</b>                         | <b>Special Requirements (if any)</b> |
| <b>Legend:</b>                      |                                               |                                      |
| ZC -- Zoning Certificate            | UP(PH) -- Use Permit, public hearing required |                                      |
| AUP -- Administrative Use Permit    | Prohibited -- Use not permitted               |                                      |

(Ord. 7426-NS § 25, 2015; Ord. 7322-NS § 2, 2013; Ord. 7210-NS § 14, 2011; Ord. 7155 § 7, 2010; Ord. 7129-NS § 7, 2010; Ord. 6949-NS § 14 (part), 2006; Ord. 6909-NS § 7 (part), 2006; Ord. 6854-NS § 11 (part), 2005; Ord. 6763-NS § 25 (part), 2003; Ord. 6671-NS § 6, 2001; Ord. 6658-NS § 1, (2001); 6644-NS § 1, 2001; Ord. 6478-NS § 4 (part), 1999)

**Section 23D.40.040 Special Provisions -- Design Review**

Commercial and mixed use projects shall be subject to Design Review as set forth in Chapters 23E.08 and 23E.12. (Ord. 6478-NS § 4 (part), 1999)

**Section 23D.40.050 Reserved**

*Reserved.* (Ord. 7210-NS § 15, 2011; Ord. 6658-N.S. § 2, 2001)

**Section 23D.40.060 Reserved**

*Reserved.* (Ord. 7426-NS § 26, 2015; Ord. 6763-NS § 26 (part), 2003)

**Section 23D.40.070 Development Standards**

- A. No lot of less than 5,000 square feet may be created.
- B. No more than one person who resides in a Group Living Accommodation use shall be allowed for each 350 square feet of lot area. One additional person who resides in a Group Living Accommodation use may also be allowed for any remaining lot area which may be less than 350 square feet, but not less than 200 square feet in area.
- C. Each Main Building shall be limited in height as follows:

|                                                                                                                                                                                                                                                                                                                                    | <u>Height limit average (ft.)</u> | <u>Stories limit (number)</u> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|-------------------------------|
| Main Building                                                                                                                                                                                                                                                                                                                      | 35*                               | 3*                            |
| All Residential Additions                                                                                                                                                                                                                                                                                                          | 16**                              | Not Applicable                |
| <p>* Main Buildings may exceed 35 ft. and three stories in height, to a height of, but not exceeding, 65 ft. and six stories subject to obtaining a Use Permit<br/> ** The Zoning Officer may issue an Administrative Use Permit to allow residential additions to exceed 16 feet in average height, up to the district limit.</p> |                                   |                               |

- D. Each Main Building shall be set back from its respective lot lines, and shall be separated from one another, in accordance with the following limits:

|     | <u>Yard location</u> |              |             |                    |                                  |
|-----|----------------------|--------------|-------------|--------------------|----------------------------------|
|     | <u>Front</u>         | <u>Rear*</u> | <u>Side</u> | <u>Street side</u> |                                  |
| 1st | 15                   | 15           | 4           | 6                  | <u>Building separation*</u><br>8 |

| Story | Yard location |       |      |             | Building separation* |
|-------|---------------|-------|------|-------------|----------------------|
|       | Front         | Rear* | Side | Street side |                      |
| 2nd   | 15            | 15    | 4    | 8           | 12                   |
| 3rd   | 15            | 15    | 6    | 10          | 16                   |
| 4th   | 15            | 17    | 8    | 12          | 20                   |
| 5th   | 15            | 19    | 10   | 14          | 24                   |
| 6th   | 15            | 21    | 12   | 15          | 28                   |

\*See Sections 23D.40.070.D.1 and 2 for yard and building separation reductions

- For two or more Main Buildings which contain Dwelling Units, the Rear Yard may be reduced subject to obtaining an Administrative Use Permit.
- For two or more Main Buildings which contain Dwelling Units, the required building separation may be reduced subject to Administrative Use Permit.

E. Maximum lot coverage may not exceed the following coverage percentages:

| Main Building Height (stories) | Lot Coverage Area (%)     |             |
|--------------------------------|---------------------------|-------------|
|                                | Interior and Through Lots | Corner Lots |
| 1 or 2                         | 45                        | 50          |
| 3                              | 40                        | 45          |
| 4 through 6                    | 35                        | 40          |

F. Each lot shall contain the following minimum Usable Open Space area: for each Dwelling Unit, 200 square feet; for each person who resides in a Group Living Accommodation use, 90 square feet. (Ord. 6949-NS § 15 (part), 2006; Ord. 6478-NS § 4 (part), 1999)

**Section 23D.40.080 Parking -- Number of Spaces**

A. A lot shall contain the following minimum number of Off-street Parking Spaces:

| Parking Required                                                                                        |                                                                                       |
|---------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Use                                                                                                     | Number of spaces                                                                      |
| Dormitories; Fraternity and Sorority Houses; Rooming and Boarding Houses; and Senior Congregate Housing | One per each five residents, plus one for manager                                     |
| Dwellings, Multiple (fewer than ten)                                                                    | One per unit (75% less for seniors, see Section C below)                              |
| Dwellings, Multiple (Ten or more)                                                                       | One per 1,000 sq. ft. of gross floor area (75% less for seniors, see Section C below) |
| Dwellings, One and Two Family                                                                           | One per unit*                                                                         |
| Employees                                                                                               | One per two non-resident employees for a Community Care Facility**                    |
| Hospitals                                                                                               | One per each four beds, plus one per each three employees                             |
| Hotels                                                                                                  | One per each three guest rooms, plus one per each three employees                     |
| Libraries                                                                                               | One per 500 sq. ft. of floor area that is publicly accessible                         |

| <b>Parking Required</b>                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------|
| <u>Use</u>                                                                                                                                                                                                                                                                                                                                                                                                                                 | <u>Number of spaces</u>                                                        |
| Nursing Homes                                                                                                                                                                                                                                                                                                                                                                                                                              | One per each five residents, plus one per each three employees                 |
| Offices, Medical                                                                                                                                                                                                                                                                                                                                                                                                                           | One per 300 sq. ft. of gross floor area                                        |
| Offices, Other                                                                                                                                                                                                                                                                                                                                                                                                                             | One per 400 sq. ft. of gross floor area; (may be reduced, see Section D below) |
| <p>* This also shall include Accessory Dwelling Units. An application for an Accessory Dwelling Unit that does not meet this standard may apply for an administrative use permit to waive this requirement subject to a special finding under Section 23D.10.060.B.</p> <p>**This requirement does not apply to those Community Care Facilities which under state law must be treated in the same manner as a single family residence.</p> |                                                                                |

- B. Other uses requiring Use Permits, including, but not limited to, Child Care Centers, Clubs, Lodges and community centers, shall provide the number of Off-street Parking Spaces determined by the Board based on the amount of traffic generated by the particular use and comparable with specified standards for other uses.
- C. For multiple dwellings where the occupancy will be exclusively for persons over the age of 62, the number of required Off-street Parking Spaces may be reduced to 25% of what would otherwise be required for multiple family dwelling use, subject to obtaining a Use Permit.
- D. For offices, other than medical offices, the Board may reduce the parking requirement from one Off-street Parking Space per 400 square feet of gross floor area to a minimum of one parking space per 800 square feet of gross floor area, subject to making the required finding under Section 23D.40.090.C. In addition, any parking supplied jointly with multiple family residential uses shall be subject to the requirements set forth in Section 23D.12.060.B.
- E. Senior Congregate Housing, Hotels, Hospitals, Nursing Homes, Offices (including Medical Offices) and Schools, when having a total gross floor area exceeding 10,000 square feet, shall satisfy the requirements of Chapter 23E.32 and the following requirements:
  - 1. Off-street loading spaces at the ratio of one space for the first 10,000 square feet of gross floor area.
  - 2. Off-street loading spaces at the ratio of one space for each additional 40,000 square feet of gross floor area of above the 10,000 square feet. (Ord. 7426-NS § 27, 2015; Ord. 6763-NS § 27 (part), 2003; Ord. 6478-NS § 4 (part), 1999)

**Section 23D.40.090 Findings**

- A. In order to approve any Permit under this chapter, the Zoning Officer or Board must make the finding required by Section 23B.32.040. The Zoning Officer or Board must also make any findings required by the following paragraphs of this section to the extent applicable. If the Zoning Officer or Board makes the applicable finding required by the following paragraph of this section then the permit shall be denied.
- B. To deny a Use Permit for a major residential addition or residential addition subject to 23D.40.070 the Zoning Officer or Board must find that although the proposed residential addition satisfies all other standards of this Ordinance, the addition would unreasonably obstruct sunlight, air or views.
- C. The reduction in the parking requirement is justified, in this particular case, because of a reduced amount of direct contact with clients, visitors or the general public. (Ord. 7426-NS § 28, 2015; Ord. 6980-NS § 7 (part), 2007; Ord. 6763-NS § 28 (part), 2003; Ord. 6478-NS § 4 (part), 1999)

Address

1722 Walnut

Page 36 of 39

Book 8

Par. No.

6

Block 2177

Surveyed by

Date

Remarks

ATTACHMENT 2

ATTACHMENT 2

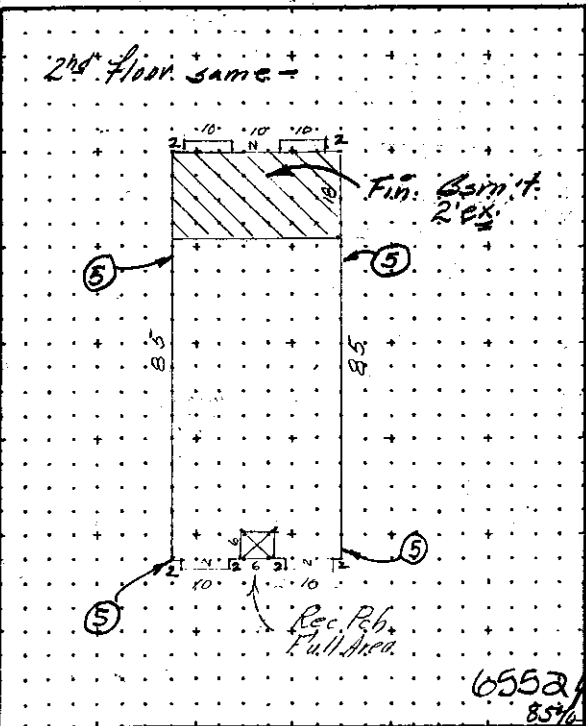
| Date | Imp. R.C. | % Gd | Table | N.R.C.L.D. | Obs. etc. | Adj. R.C.L.D. | Building Department Records                                              |                        |                     |  |  |
|------|-----------|------|-------|------------|-----------|---------------|--------------------------------------------------------------------------|------------------------|---------------------|--|--|
| 27   | 25346     | 55   | 45    | —          | —         | 13940X        | Permit for                                                               | Apts                   | Alt                 |  |  |
|      |           |      |       |            |           |               | Permit No.                                                               | 26096                  | 31942               |  |  |
| 38   | 54353     | 47   | 50    |            |           | 25545         | Year Built                                                               | 1926                   | 9-24-28             |  |  |
|      |           |      |       |            |           |               | Amount                                                                   | \$17,500 <sup>00</sup> | \$350 <sup>00</sup> |  |  |
|      |           |      |       |            |           |               | Additions, Alterations, etc.                                             |                        |                     |  |  |
|      |           |      |       |            |           |               | #93404 10/13/61 \$3000. REPLACE PART OF FOUNDATION. 1-25-62 COMPLETE-LDB |                        |                     |  |  |
|      |           |      |       |            |           |               | #113294-1/3/69-\$1,000 <sup>00</sup> -FIRE REPAIR                        |                        |                     |  |  |

## Assessment Record

|         |      |   |  |  |  |
|---------|------|---|--|--|--|
| 1949-50 | 7950 | ✓ |  |  |  |
| 1951-52 | 7780 | ✓ |  |  |  |
| 1956-57 | 7780 | ✓ |  |  |  |
| 1962-63 | 7950 | ✓ |  |  |  |
|         |      |   |  |  |  |
|         |      |   |  |  |  |

Remarks, Reappraisals, etc.

Use Page 27 of 39 Stories 2 Constr. Class. D.C. 6  
 Foundation Av. Conc. Excavation ATTACHMENT 4  
 Structural Av. F.C. Grade \_\_\_\_\_  
 Exterior Walls Stucco Windows Wd. Sash  
 Roof Material T & G Type Flat Pitch \_\_\_\_\_



Misc. Structures—Garages, etc.

| Type | Size | Ext. | Rf. | Int. | Flr. | Area | At | Cost |
|------|------|------|-----|------|------|------|----|------|
| x    |      |      |     |      |      |      |    |      |
| x    |      |      |     |      |      |      |    |      |
| x    |      |      |     |      |      |      |    |      |
| x    |      |      |     |      |      |      |    |      |

| Rooms       | ROOM & FINISH DETAIL |   |   |   |      |              |      |                 |       |                 | Plumbing Detail |         |
|-------------|----------------------|---|---|---|------|--------------|------|-----------------|-------|-----------------|-----------------|---------|
|             | Floors               |   |   |   |      | Floor Finish | Trim | Interior Finish |       | Fixture         | No.             |         |
|             | B                    | 1 | 2 | 3 | Type |              |      | Top             | Walls |                 |                 | Ceiling |
| Ent. Hall   |                      |   |   |   |      | P            | P    | Plast           |       | Bath            | 0               |         |
| Living Rm.  |                      | 4 | 4 |   |      | Wd           | all  | all             |       | Shower          | 0               |         |
| Dining Rm.  |                      |   |   |   |      |              |      |                 |       | Shower O.T.     | 0               |         |
| Kitchen Nk. |                      | 4 | 4 |   |      | P            |      |                 |       | Water Closet    | 0               |         |
| Breakfast   |                      |   |   |   |      |              |      |                 |       | Lavatory        | 0               |         |
| Study       |                      |   |   |   |      |              |      |                 |       | Sink            | 0               |         |
| Bed Rm.     |                      |   |   |   |      |              |      |                 |       | Wash Tray       | 0               |         |
| Bath        |                      | 4 | 4 |   |      | Tile         |      |                 |       | Auto Heater     | 1               |         |
| Laundry     |                      |   |   |   |      |              |      |                 |       | 50 Gal          |                 |         |
| Recreation  |                      |   |   |   |      |              |      |                 |       | Fireplace       | 1               |         |
| Furnace     | 1                    |   |   |   |      | Conc         |      |                 |       | Chimney         | 1               |         |
| Garage      |                      |   |   |   |      |              |      |                 |       | Patent Flue     | 1               |         |
|             |                      |   |   |   |      |              |      |                 |       | Heating         |                 |         |
|             |                      |   |   |   |      |              |      |                 |       | Steam Zone Unit |                 |         |
|             |                      |   |   |   |      |              |      |                 |       | 12 radiators    |                 |         |
|             |                      |   |   |   |      |              |      |                 |       | Misc.           |                 |         |

| COMPUTATIONS       |      |         |       | Year         |                    | Year 63-64   |      | Year    |      |
|--------------------|------|---------|-------|--------------|--------------------|--------------|------|---------|------|
| Unit               | Area | Unit C. | Cost  | Unit C.      | Cost               | Unit C.      | Cost | Unit C. | Cost |
| 1st floor          | 2970 | 7.11    | 12207 | 846          | 25126              |              |      |         |      |
| 2nd                | 2970 | 5.49    | 10363 | 719          | 21354              |              |      |         |      |
| Fin. Bsm't.        | 612  | 2.00    | 1224  | 549          | 3359               |              |      |         |      |
| Heat 5940 #        |      |         | 1550  | 76           | 4514               |              |      |         |      |
| Misc. Equipment    |      |         |       |              |                    |              |      |         |      |
| <b>TOTAL R. C.</b> |      |         |       | <b>25346</b> | <b>R. C. 54353</b> | <b>R. C.</b> |      |         |      |



Administrative Record  
ZAB Appeal:  
1722 Walnut Street

This attachment is on file and available for review at the City Clerk Department, or can be accessed from the City Council Website. Copies of the attachment are available upon request.

**City Clerk Department**  
2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

or from:

**The City of Berkeley, City Council's Web site**  
<http://www.cityofberkeley.info/citycouncil/>



ATTACHMENT 7

**NOTICE OF PUBLIC HEARING-BERKELEY CITY COUNCIL  
SCHOOL DISTRICT BOARD ROOM, 1231 ADDISON STREET**

**ZAB APPEAL: USE PERMIT/VARIANCE #ZP2018-0021**

Notice is hereby given by the City Council of the City of Berkeley that on **TUESDAY, MARCH 26, 2019 at 6:00 P.M.** a public hearing will be conducted to consider an appeal against a decision by the Zoning Adjustments Board's denial of Use Permit/Variance #ZP2018-0021, to legalize an unpermitted detached dwelling unit in the rear yard area of a lot legally developed with an eight-unit apartment building.

A copy of the agenda material for this hearing will be available on the City's website at [www.CityofBerkeley.info](http://www.CityofBerkeley.info) as of **March 14, 2019**.

For further information, please contact Leslie Mendez, Project Planner at (510) 981-7426 Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record 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 the City Council, 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 City Clerk. 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 City Clerk at 981-6900 or [clerk@cityofberkeley.info](mailto:clerk@cityofberkeley.info) for further information.

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Mark Numainville, City Clerk

Mailed: March 12, 2019

**NOTICE CONCERNING YOUR LEGAL RIGHTS:** *If you object to a decision by the City Council to approve or deny (Code Civ. Proc. §1094.6(b)) or approve (Gov. Code 65009(c)(5)) an appeal, the following requirements and restrictions apply: 1) Pursuant to Code of Civil Procedure Section 1094.6, no lawsuit challenging a City decision to deny or approve a Zoning Adjustments Board decision may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a Zoning Adjustments Board decision, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

*If you challenge the above in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Berkeley at, or prior to, the public hearing. Background information concerning this proposal will be available at the City Clerk Department and posted on the City of Berkeley webpage at least 10 days prior to the public hearing.*





Office of the City Manager

**20a**ACTION CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Scott Ferris, Director, Parks, Recreation & Waterfront  
Phil Harrington, Director, Public Works

Subject: Providing direction on closing the funding gap to complete Measure T1 Phase 1 projects

RECOMMENDATION

1. Council to provide direction on a preferred option to close the funding gap in the current Measure T1 Phase 1 program. Four possible options are summarized below and discussed in further detail starting on page 4 under *Current Situations and its Effects – Funding Gap*.

Option A: Reduce up to \$5 million between 13 projects by reducing project scopes from *Planning and Design* to *Conceptual*, *Construction* to *Planning and Design*, *Construction* to *Conceptual*, or removing or delaying the project.

OR

Option B: Reduce up to \$4 million by reducing the Live Oak Community Center project scope from *Construction* to *Planning and Design*.

OR

Option C: Authorize up to \$3 million in additional funding for T1 Phase 1 and reduce \$2 million between 7 projects by reducing project scopes from *Planning and Design* to *Conceptual* or *Construction* to *Planning and Design*.

OR

Option D: Authorize up to \$7 million in additional funding to complete all T1 Phase 1 projects.

2. Council adopt a resolution authorizing the chosen option to complete Measure T1 Phase 1 projects.

SUMMARY

On December 6, 2018, staff notified City Council of an estimated funding gap of \$5.416 million for Measure T1 Phase 1<sup>1</sup>; this gap was due to the cost of approved projects exceeding bond proceeds, an increase in energy upgrades included in the facility

<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/12\\_Dec/Documents/2018-12-06\\_WS\\_Item\\_02\\_Semi-Annual\\_Report\\_on\\_Measure\\_T1\\_pdf.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/12_Dec/Documents/2018-12-06_WS_Item_02_Semi-Annual_Report_on_Measure_T1_pdf.aspx)

projects, and soaring escalation. Since then, staff have received construction bids and an engineer's estimate on three major projects, which revised the funding gap to \$6.808 million as summarized in Table 1.

**Table 1 – Measure T1 Phase 1 Revised Program Cost Summary**

| Description                                                                                               | Amount               |
|-----------------------------------------------------------------------------------------------------------|----------------------|
| <b>Approvals:</b>                                                                                         |                      |
| June 27, 2017- Council Approved List of Projects for Phase 1                                              | \$37,365,000         |
| January 23, 2018 – Council Authorized \$2M for Mental Health Building                                     | \$2,000,000          |
| <b>Total Program Cost</b>                                                                                 | <b>\$39,365,000</b>  |
| <b>Reductions:</b>                                                                                        |                      |
| 1. Bond Transaction Cost Not Incurred                                                                     | (\$800,000)          |
| 2. Transfer Station Master Plan (Funded by Zero Waste)                                                    | (\$500,000)          |
| 3. Over-estimated contributions for Art                                                                   | (\$49,000)           |
| 4. West Berkeley Service Center (Alternate funding)                                                       | (\$148,215)          |
| 5. Mental Health Building Savings                                                                         | (\$500,000)          |
| 6. Citywide Irrigation System Project Savings                                                             | (\$150,000)          |
| <b>Total Reductions</b>                                                                                   | <b>(\$2,147,215)</b> |
| <b>Additions:</b>                                                                                         |                      |
| 1. Escalation and energy upgrades for North Berkeley Senior Center and Live Oak Community Center projects | 2,700,000            |
| 2. Estimated additional escalation for other construction projects                                        | 1,890,208            |
| <b>Total Additions</b>                                                                                    | <b>\$4,590,208</b>   |
| <b>Revised Total Program Cost</b>                                                                         | <b>\$41,807,993</b>  |
| Total Bonds Sold                                                                                          | \$35,000,000         |
| <b>Funding Gap</b>                                                                                        | <b>\$6,807,993</b>   |

Reductions to the program cost are detailed below:

1. Savings of **\$800,000** from bond transaction costs that were not incurred.
2. Savings of **\$500,000** from the Transfer Station Master Plan. The project is now being funded by the Zero Waste Fund.
3. Reduction of **\$49,000** due to over-estimation of contributions for Art. 1% of bond proceeds are required to be used for functional art. The original calculation was based on the revised program cost of over \$39 million instead of the \$35 million in bond proceeds received.
4. Savings of **\$148,215** from the West Berkeley Service Center Project. Potential alternate funding source.
5. Approximate savings of **\$500,000** from the Mental Health Building Renovation project. The contract amount was less than the budgeted amount.
6. Savings of **\$150,000** from the Citywide Irrigation System project. The contract amount was less than the budgeted amount.

Additions to the program cost are detailed below:

1. The estimated additional funding needed for the North Berkeley Senior Center (NBSC) and Live Oak (LO) Community Center projects is **\$2.7 million**.

- The lowest bid received for the NBSC project is \$7.6 million, which is \$500,000 above the engineer's estimate and \$1.5 million above the construction budget due to the current construction climate.
  - The estimated cost for the LO project is \$5.8 million. The Engineer's estimate is \$5.3 million, but if we include additional energy upgrades and assume that bids for the LO project will see similar escalation to the NBSC, the total needed would be \$1.8 million to complete this project. Parks Tax can provide \$600,000 in funding and staff is requesting the additional \$1.2 million be funded by Measure T1.
2. When project costs were estimated in 2015, a 3% annual estimated escalation was assumed. The actual escalation rates over the past couple of years have far exceeded that assumption. Based on engineers' estimates from multiple City projects and the national and local construction indices, an escalation rate of 15% is now assumed for the construction cost for the remaining parks and street projects in T1 Phase 1. This estimated additional escalation for construction projects is **\$1,890,208**.

### FISCAL IMPACTS OF RECOMMENDATION

The fiscal impacts of each option are detailed below. Note that Options A, B and C require that all remaining construction projects stay within their existing budgets, with no allowance for additional escalation. If one of these options is selected, project scopes will have to be readjusted to stay within budget, which may result in smaller or incomplete projects. For example, a play structure may be reduced in size or may not include as many elements as existing. If projects are delayed to Phase 2, staff estimate an additional 25% in construction costs due to escalation.

Without additional escalation, options A, B, and C require additional funding and/or scope reductions totaling approximately \$5 million. This amount does not include the \$1.89 million in escalation for the remaining construction projects.

*Option A:* This option will reduce \$5 million in the scopes of 13 projects (See page 5 for more details on reductions). With escalating construction costs year over year, delaying these projects will result in increased project costs.

*Option B:* This option will reduce the Live Oak Community Center project from *Construction to Planning and Design*. This \$4 million reduction in construction cost along with over \$1.2 million in escalation and energy upgrades associated with this project will result in at least \$5 million in reductions. If this project is postponed, it is estimated that in 2022, the construction cost will exceed \$7.2 million.

*Option C:* This option will reduce approximately \$2 million by reducing the scope of 7 projects (See page 6 for more details on reductions). In addition, approximately \$3 million in funding from an unidentified funding source will be needed complete Measure T1 Phase 1 projects.

**Option D:** This option will require approximately \$7 million in additional funding to complete all Measure T1 Phase 1 projects with additional escalation.

If Council chooses option C or D, \$3 to \$7 million dollars would need to be advanced from the General Fund and reimbursed by future Measure T1 bond proceeds in FY 2021. Funding would need to be identified from General Fund revenues such as excess equity or transfer tax revenues above the designated \$12.5 million.

## CURRENT SITUATION AND ITS EFFECTS

### *Funding Gap*

Since August 2018, Staff have held five meetings with the T1 Joint Subcommittee to develop a change management process, discuss the funding gap issue, develop criteria and scorecard for project prioritization, and most recently, at the January 28, 2019 meeting, discuss four options to address this funding gap. (See attachment 2 for the calculations for each option.)

**Option A:** Reduce \$5 million in project scope. This option assumes that the North Berkeley Senior Center and Live Oak Community Center projects will be fully funded (\$2.7 million in escalation and energy upgrades), 13 projects have a reduction in scope, and all other projects' scopes will be adjusted to remain within budget without additional escalation.

Reduce Conceptual Design effort for the following project:

- Willard Clubhouse

Reduce the following projects from *Planning and Design* to *Conceptual*.

- Berkeley Municipal Pier
- France Albrier Community Center
- Tom Bates Fieldhouse & Restroom

Reduce the following projects from *Construction* to *Planning and Design*.

- San Pablo Park Tennis Courts
- Strawberry Creek Park Restroom
- George Florence Park Playground

Reduce the following project from *Construction* to *Conceptual*.

- Grove Park Field

Remove or delay the following projects:

- Monterey (Alameda to Hopkins)
- Hopkins (San Pablo to the Alameda)
- Bancroft (Milvia to Shattuck)
- 2<sup>nd</sup> Street (Delaware to Addison)
- King School Park Bioswale (not feasible) – Since project is not feasible, funding for this project was redistributed to fund green

infrastructure options for streets. This option will remove the green infrastructure planned for streets.

**Option B:** Reduce up to \$4 million in project scope. This option assumes that the North Berkeley Senior Center is fully funded (\$1.5 million in escalation and energy upgrades), the Live Oak Community Center project is reduced to Planning and Design and all other projects' scopes will be adjusted to remain within budget without additional escalation.

**Option C:** Add up to \$3 million in funding and reduce \$2 million in project scope. This option assumes that the North Berkeley Senior Center and Live Oak Community Center projects will be fully funded (\$2.7 million in escalation and energy upgrades), 7 projects have a reduction in scope, and all other projects' scopes will be adjusted to remain within budget without additional escalation.

Reduce Conceptual Design effort for the following project:

- Willard Clubhouse

Reduce the following project from *Planning and Design* to *Conceptual*.

- Tom Bates Fieldhouse and Restroom

Reduce the following projects from *Construction* to *Planning and Design*.

- Grove Park Field
- Strawberry Creek Park Restroom
- George Florence Park Playground
- Reduce King School Park Bioswale budget by \$500,000, which will allow approximately \$685,000, the balance of the funding allocated to this project, to be used to fund green infrastructure for streets.
- The Berkeley Pier Project T1 allocation will be reduced by \$250,000.

**Option D:** Add up to \$7 million in additional funding to complete all projects. This option assumes that all projects will be fully funded and accounts for additional escalation of \$1,890,208 to complete all construction projects.

Options A, B, and C either eliminate or reduce the scopes of numerous projects. If any of these options are chosen, Council has the option to identify the projects that were eliminated or reduced in scope as a priority in Phase 2.

#### *Commission Recommendations*

On February 7<sup>th</sup> and 13<sup>th</sup>, 2019, respectively, the Public Works and Parks & Waterfront Commissions voted to recommend Option D, which calls for securing additional funding up to \$7 million to complete Phase 1 projects with additional escalation included.

The two commissions adopted the same action, which stated: We prefer Option D to meet the funding shortfall. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City.

- We are concerned that a disproportionate share of improvements has been

allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented.

- We support identifying a green infrastructure project in Phase 1.
- We support implementing the 7 street improvement projects in Phase 1.

On February 7, the Public Works Commission took action to approve the recommendation (M/S/C: McGrath/Dominguez/unanimous): Ayes: Constantine, Erbe, Dominguez, Freiberg, Krpata, McGrath, Yep; Noes: None; Abstain: None; Absent: Hitchens. (See Item C for the commission's recommendation.)

On February 13, 2019, the Parks and Waterfront Commission took action to approve the recommendation (M/S/C: McGrath/Fogel/unanimous): Ayes: Brostrom; Diehm; Fogel; Kamen; Kawczynska; McGrath; McKay; Targ; Wozniak; Noes: None; Abstain: None; Absent: None. (See Item B for the commission's recommendation.)

On January 23, 2019, the Berkeley Energy Commission recommended the City Council integrate greenhouse gas (GHG) reduction goals as stated in the Climate Emergency resolution adopted June 12, 2018 into the T1 funding priorities. (M/S/C: Leger/Stromberg/unanimous). Ayes: Leger, Bell, Patel, Weems, Paulos, Stromberg; Noes: None; Abstain: None; Absent: Luce, Schlacter. (See Item D for the commission's recommendation.)

### *Energy Upgrades*

At the December 6, 2018 Semi-Annual update to Council, staff informed City Council that due to the increase in construction cost, projects would need to be potentially scaled back to ensure that the basic seismic, ADA and other code needs are covered in construction. Based on City Council feedback, staff included many of the energy upgrades as additive/deductive alternates. The estimated cost for energy-saving additions, such as installation of solar systems, HVAC and electrical upgrades, at the Mental Health Building, Live Oak Community Center, and the North Berkeley Senior Center, is \$3.7 million. A large portion of these energy upgrades (i.e. electrification) were not considered in the initial estimate in 2015.

Energy efficiency investments that result in energy use reductions have a measurable pay back that can be calculated by reduced energy costs. In cases where natural gas is being replaced with electricity, it is more difficult to quantify the financial impacts due to differences in the rates and cost of the two different fuel types. While electric heat pumps are 3 to 4 times more efficient than natural gas systems, energy costs are dependent on the current and future price and rate structures for natural gas and electricity. While in the past PG&E's electricity prices have been higher than the state average, East Bay Community Energy, the new community electricity supplier, is committed to providing lower cost electricity and developing electrification-friendly rate structures. Therefore it is difficult to predict or compare future operating costs of electricity and natural gas equipment.



Transitioning buildings away from natural gas to clean electricity offers significant health, safety and resiliency benefits. In cases where on-site solar panels and battery storage are available, it is possible to provide power for a building when the electricity grid goes down. This ability to generate “island power” provides resilience value by allowing care and shelter facilities to retain power in the event of an emergency or disaster.

## BACKGROUND

In November 2016, Berkeley voters approved [Measure T1](#)<sup>2</sup> – a \$100 million dollar general obligation bond to repair, renovate, replace or reconstruct the City’s aging existing infrastructure, including facilities, streets, sidewalks, storm drains, and parks. Measure T1 passed with 86.5% of the vote.

After the passage of Measure T1, the City Manager proposed a [three phase implementation plan](#)<sup>3</sup> for the Measure T1 program. The \$100 million of bond proceeds is anticipated to be spent within 12 years, with each phase expected to last four years. Phase 1 covers FY 2018 to FY 2021. Phase 2 covers FY 2022 to 2025. Phase 3 covers FY 2026 to FY 2029.

From December 2016 through June 2017, the City undertook a robust public process to gather input on the proposed projects. In addition to three Measure T1 Workshops for the general public, the Parks & Waterfront and Public Works Commissions invited and received input from the public and other City Commissions. They submitted a [joint report to Council in June 2017](#)<sup>4</sup> detailing their recommendations. The City Manager incorporated this input and submitted a [final recommended list of projects](#)<sup>5</sup>. Council adopted this list and proposed plan for implementing Phase 1 of the T1 bond program on June 27, 2017.

After the approval of Phase 1 projects, staff have continued to provide updates and gather input from the public. To date, staff have

- Provided 3 semi-annual updates on T1 to Council,
- Held multiple community meetings and events for 17 projects,
- Attended 11 participating commission meetings to provide updates on T1,
- Held 5 meetings with the T1 Joint Subcommittee to discuss and resolve issues regarding T1 implementation, and
- Updated the T1 website<sup>6</sup> to provide continuous updates to the public on the status of Phase 1 projects, community meetings and events.

<sup>2</sup> See <https://www.cityofberkeley.info/MeasureT1/>

<sup>3</sup> See [https://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Level\\_3\\_-\\_General/Measure%20T1%20GO%20Bonds%20Recommendations.pdf](https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_General/Measure%20T1%20GO%20Bonds%20Recommendations.pdf)

<sup>4</sup> See [https://www.cityofberkeley.info/uploadedFiles/Parks\\_Rec\\_Waterfront/Level\\_3\\_-\\_General/Measure%20T1%20-%20Joint%20Commission%20Report%20-%20June%202017%20w%20attachments.pdf](https://www.cityofberkeley.info/uploadedFiles/Parks_Rec_Waterfront/Level_3_-_General/Measure%20T1%20-%20Joint%20Commission%20Report%20-%20June%202017%20w%20attachments.pdf)

<sup>5</sup> See [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/06\\_June/Documents/2017-06-27\\_Item\\_49\\_Implementing\\_Phase\\_1.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/06_June/Documents/2017-06-27_Item_49_Implementing_Phase_1.aspx)

<sup>6</sup> See [www.cityofberkeley.info/measureT1](http://www.cityofberkeley.info/measureT1)

On January 23, 2018, Council adopted Resolution 68,290-N.S., authorizing the allocation of \$2 million from Measure T1 Phase 1 for major renovations of the City of Berkeley's Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way.

ENVIRONMENTAL SUSTAINABILITY

Transitioning municipal buildings away from natural gas to clean electricity is an important implementation strategy for meeting the goal of Berkeley's Climate Action Plan to reduce emissions 80% by 2050. Municipal building electricity purchased from East Bay Clean Energy (EBCE) is emissions-free. The additional funding will allow for the integration of greenhouse gas reduction and resilience measures into T1 projects by replacing natural gas equipment and appliances with electric heat pumps and other electric appliances, resulting in zero emission municipal buildings, where feasible or practicable.

RATIONALE FOR RECOMMENDATION

In order to keep projects on schedule and spend the 85% of bond proceeds by November 2020, City Council needs to take action on a preferred option. Currently, several projects are delayed (i.e. not being submitted for permitting or posted for bid) until this decision is made. Depending on the option chosen, some projects may have to be reduced in scope, delayed, or removed to meet the budget. Staff may have to re-scope or value engineer projects, which will delay construction and put the program at risk for not meeting the spending deadline. Choosing one of the preferred options will provide staff a definitive direction for T1 Phase 1 program.

ALTERNATIVE ACTIONS CONSIDERED

See Options "A", "B", "C", and "D" starting on page 4.

CONTACT PERSON

Scott Ferris, Parks, Recreation & Waterfront, 510-981-6700  
Phil Harrington, Public Works, 510-981-6300

Attachments:

- 1: Resolution
- 2: Measure T1 Scorecard and Options to Address Funding Gap

Option A

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

AUTHORIZING THE REDUCTION OF UP TO \$5 MILLION IN PROJECT SCOPE TO COMPLETE MEASURE T1 PHASE 1

WHEREAS, on June 27, 2017, Council approved \$37.365 million in projects for Measure T1 Phase 1; and

WHEREAS, on January 23, 2018, Council approved Resolution 68,290-N.S., allocating \$2 million from T1's Phase 1 for Major Renovations of the City of Berkeley's Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way; and

WHEREAS, in November 2017, \$35 million in bonds were sold for Measure T1 Phase 1; and

WHEREAS, due to the cost of approved projects exceeding bond proceeds, an increase in energy upgrades included in the facility projects, and soaring escalation there is an estimated funding gap of approximately \$7 million in Measure T1 Phase; and

WHEREAS, the North Berkeley Senior Center and Live Oak Community Center projects will be fully funded (\$2.7 million in escalation and energy upgrades); and

WHEREAS, to complete the remaining Measure T1 Phase 1 projects, 13 projects will have a reduction in scope and all other project scopes will be adjusted to remain within budget without additional escalation (See Exhibit A); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that \$5 million in Measure T1 Phase 1 projects be reduced in scope to complete Measure T1 Phase 1 program.

Exhibits

A: Reduction in Project Scope

Exhibit A – Reduction in Project Scope

Reduce Conceptual Design effort for the following project:

- Willard Clubhouse

Reduce the following projects from Planning and Design to Conceptual.

- Berkeley Municipal Pier
- France Albrier Community Center
- Tom Bates Fieldhouse & Restroom

Reduce the following projects from Construction to Planning and Design.

- San Pablo Park Tennis Courts
- Strawberry Creek Park Restroom
- George Florence Park Playground

Reduce the following project from Construction to Conceptual.

- Grove Park Field

Remove or delay the following projects:

- Monterey (Alameda to Hopkins)
- Hopkins (San Pablo to the Alameda)
- Bancroft (Milvia to Shattuck)
- 2nd Street (Delaware to Addison)
- King School Park Bioswale (not feasible) – Since project is not feasible, funding for this project was redistributed to fund green infrastructure options for streets. This option will remove the green infrastructure planned for streets.

Option B

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

AUTHORIZING THE REDUCTION OF SCOPE FOR THE LIVE OAK COMMUNITY CENTER PROJECT FROM CONSTRUCTION TO PLANNING AND DESIGN TO COMPLETE MEASURE T1 PHASE 1 PROGRAM

WHEREAS, on June 27, 2017, Council approved \$37.365 million in projects for Measure T1 Phase 1; and

WHEREAS, on January 23, 2018, Council approved Resolution 68,290-N.S., allocating \$2 million from T1's Phase 1 for Major Renovations of the City of Berkeley's Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way; and

WHEREAS, in November 2017, \$35 million in bonds were sold for Measure T1 Phase 1; and

WHEREAS, due to the cost of approved projects exceeding bond proceeds, an increase in energy upgrades included in the facility projects, and soaring escalation there is an estimated funding gap of approximately \$7 million in Measure T1 Phase; and

WHEREAS, the North Berkeley Senior Center project will be fully funded (\$1.5 million in escalation and energy upgrades); and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Live Oak Community Center project is reduced to Planning and Design and all other projects' scopes will be adjusted to remain within budget without additional escalation.

Option C

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

AUTHORIZING \$3 MILLION IN FUNDING AND REDUCING \$2 MILLION IN MEASURE T1 PHASE 1 PROJECT SCOPES TO COMPLETE MEASURE T1 PHASE 1 PROGRAM

WHEREAS, on June 27, 2017, Council approved \$37.365 million in projects for Measure T1 Phase 1; and

WHEREAS, on January 23, 2018, Council approved Resolution 68,290-N.S., allocating \$2 million from T1's Phase 1 for Major Renovations of the City of Berkeley's Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way; and

WHEREAS, in November 2017, \$35 million in bonds were sold for Measure T1 Phase 1; and

WHEREAS, due to the cost of approved projects exceeding bond proceeds, an increase in energy upgrades included in the facility projects, and soaring escalation there is an estimated funding gap of approximately \$7 million in Measure T1 Phase; and

WHEREAS, to complete the remaining Measure T1 Phase 1 projects, \$3 million in additional funding is needed, 7 projects will have a reduction in scope, and all other project scopes will be adjusted to remain within budget without additional escalation (See Exhibit A); and

WHEREAS, on December 13, 2016, Council adopted Resolution 67,781-N.S., which allowed the General Fund to advance T1 projects and be reimbursed later when T1 bond dollars are available ; and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that \$2 million in Measure T1 Phase 1 projects be reduced in scope and add \$3 million in additional funding from General Fund to complete Measure T1 Phase 1 program. The General Fund will be reimbursed once Measure T1 Phase 2 bond proceeds are received.

Exhibits

A: Reduction in Project Scope

Exhibit A – Reduction in Project Scope

Reduce Conceptual Design effort for the following project:

- Willard Clubhouse

Reduce the following project from *Planning and Design* to *Conceptual*.

- Tom Bates Fieldhouse and Restroom

Reduce the following projects from *Construction* to *Planning and Design*.

- Grove Park Field
- Strawberry Creek Park Restroom
- George Florence Park Playground
- Reduce King School Park Bioswale budget by \$500,000, which will allow approximately \$685,000, the balance of the funding allocated to this project, to be used to fund green infrastructure for streets.
- The Berkeley Pier Project T1 allocation will be reduced by \$250,000.

Option D

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

AUTHORIZING \$7 MILLION IN MEASURE T1 PHASE 2 FUNDS TO BE USED TO  
COMPLETE MEASURE T1 PHASE 1 PROJECTS

WHEREAS, on June 27, 2017, Council approved \$37.365 million in projects for Measure T1 Phase 1; and

WHEREAS, on January 23, 2018, Council approved Resolution 68,290-N.S., allocating \$2 million from T1's Phase 1 for Major Renovations of the City of Berkeley's Adult Mental Health Clinic located at 2640 Martin Luther King Jr. Way; and

WHEREAS, in November 2017, \$35 million in bonds were sold for Measure T1 Phase 1; and

WHEREAS, due to the cost of approved projects exceeding bond proceeds, an increase in energy upgrades included in the facility projects, and soaring escalation there is an estimated funding gap of approximately \$7 million in Measure T1 Phase; and

WHEREAS, on December 13, 2016, Council adopted Resolution 67,781-N.S., which allowed the General Fund to advance T1 projects and be reimbursed later when T1 bond dollars are available ; and

WHEREAS, there is \$7 million available in the City's General Fund for Measure T1 Phase 1 between FY 19 to FY 21.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that funding in the amount of \$7 million from General Fund be used for Measure T1 Phase 1. The General Fund will be reimbursed once Measure T1 Phase 2 bond proceeds are received.



Measure T1 Project Prioritization Scorecard and Potential Savings Options

| Project                                     | Criteria |    |     |      |    |    |    |    | Total        | Project Budget | Program Reductions | Option "A"    | Option "B"  | Option "C" | Option "D" | Additional Escalation of 15% <sup>1</sup> |
|---------------------------------------------|----------|----|-----|------|----|----|----|----|--------------|----------------|--------------------|---------------|-------------|------------|------------|-------------------------------------------|
|                                             | GB       | EQ | HSR | ES/D | PR | LV | FS |    |              |                |                    |               |             |            |            |                                           |
| <b>Conceptual</b>                           |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| Veteran's Building                          | 5        | 5  | 10  | 10   | 0  | 0* | 5  | 35 | \$148,215    |                |                    |               |             |            |            |                                           |
| Old City Hall                               | 5        | 5  | 10  | 10   | 0  | 0* | 5  | 35 | \$148,215    |                |                    |               |             |            |            |                                           |
| Willard Clubhouse                           | 5        | 10 | 0   | 5    | 0  | 0  | 5  | 25 | \$247,025    |                | (150,000)          |               | (150,000)   |            | B          |                                           |
|                                             |          |    |     |      |    |    |    |    | \$543,455    | \$0            | (\$150,000)        | \$0           | (\$150,000) | \$0        |            | \$0                                       |
| <b>Planning and Design</b>                  |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| Municipal Pier                              | 10       | 5  | 5   | 10   | 10 | 10 | 0  | 50 | \$889,290    |                | (500,000)          |               | (250,000)   |            | C          |                                           |
| Frances Albrier Community Center            | 10       | 5  | 10  | 10   | 0  | 0  | 10 | 45 | \$741,075    |                | (500,000)          |               |             |            | B          |                                           |
| Aquatic Park Tide Tubes                     | 10       | 5  | 5   | 10   | 0  | 0  | 10 | 40 | \$345,835    |                |                    |               |             |            |            | 41,500                                    |
| Tom Bates Fieldhouse/Restroom               | 5        | 5  | 5   | 5    | 0  | 0  | 5  | 25 | \$247,025    |                | (200,000)          |               | (200,000)   |            | B          |                                           |
|                                             |          |    |     |      |    |    |    |    | \$2,223,225  | \$0            | (\$1,200,000)      | \$0           | (\$450,000) | \$0        |            | \$41,500                                  |
| <b>Construction</b>                         |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| <b>Parks and Facilities</b>                 |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| North Berkeley Senior Center                | 10       | 5  | 10  | 10   | 10 | 10 | 10 | 65 | \$6,719,080  |                |                    |               |             |            |            |                                           |
| Live Oak Community Center                   | 10       | 5  | 10  | 10   | 5  | 0  | 10 | 50 | \$4,841,690  |                |                    | (4,000,000)   |             |            |            |                                           |
| Rose Garden Tennis, Pathways                | 10       | 5  | 5   | 5    | 5  | 5  | 10 | 45 | \$1,185,720  |                |                    |               |             |            |            | 142,286                                   |
| Rose Garden Drainage                        | 5        | 5  | 10  | 5    | 5  | 0  | 10 | 40 | \$790,480    |                |                    |               |             |            |            | 94,858                                    |
| San Pablo Play                              | 10       | 5  | 5   | 0    | 0  | 5  | 10 | 35 | \$247,025    |                |                    |               |             |            |            | 29,643                                    |
| San Pablo Tennis                            | 10       | 5  | 5   | 5    | 0  | 0  | 10 | 35 | \$790,480    |                | (700,000)          |               |             |            | B          | 94,858                                    |
| Grove Park Fields                           | 10       | 5  | 5   | 10   | 0  | 0  | 5  | 35 | \$988,100    |                | (691,670)          |               | (270,000)   |            | E          | 118,572                                   |
| Strawberry Creek Park Restroom              | 5        | 5  | 0   | 0    | 5  | 5  | 5  | 25 | \$345,835    |                | (242,085)          |               | (242,085)   |            | B          | 41,500                                    |
| George Florence Play                        | 5        | 5  | 0   | 0    | 0  | 0  | 5  | 15 | \$592,860    |                | (415,002)          |               | (415,002)   |            | B          | 71,143                                    |
|                                             |          |    |     |      |    |    |    |    | \$16,501,270 | \$0            | (\$2,048,757)      | (\$4,000,000) | (\$927,087) | \$0        |            | \$592,860                                 |
| <b>Streets and GI</b>                       |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| University Ave, Marina Blvd, Spinnaker      | 10       | 5  | 5   | 5    | 10 | 10 | 10 | 55 | \$3,458,350  |                |                    |               |             |            |            | 415,002                                   |
| Adeline and Hearst                          | 10       | 10 | 5   | 5    | 10 | 5  | 10 | 55 | \$2,896,549  |                |                    |               |             |            |            | 347,586                                   |
| Monterey                                    | 5        | 5  | 5   | 5    | 10 | 5  | 10 | 45 | \$24,703     |                | (24,703)           |               |             |            | F          | 2,964                                     |
| Ward                                        | 5        | 5  | 0   | 10   | 5  | 5  | 5  | 35 | \$1,679,770  |                |                    |               |             |            |            | 201,572                                   |
| Hopkins                                     | 10       | 5  | 5   | 10   | 0  | 5  | 0  | 35 | \$98,810     |                | (98,810)           |               |             |            | F          | 11,857                                    |
| Bancroft                                    | 10       | 5  | 5   | 0    | 5  | 5  | 0  | 30 | \$24,703     |                | (24,703)           |               |             |            | F          | 2,964                                     |
| 2nd                                         | 5        | 5  | 0   | 0    | 0  | 5  | 5  | 20 | \$247,025    |                | (247,025)          |               |             |            | F          | 29,643                                    |
| King School Park (Not feasible)             | 5        | 5  | 0   | 10   | 0  | 0  | 0  | 20 | \$1,185,720  |                | (1,185,720)        |               | (500,000)   |            | G          | 142,286                                   |
|                                             |          |    |     |      |    |    |    |    | \$9,615,630  | \$0            | (\$1,580,961)      | \$0           | (\$500,000) | \$0        |            | \$1,153,876                               |
| <b>Citywide Safety Improvements</b>         |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| Corporation Yard (Electrical)               | 10       | 5  | 5   | 0    | 5  | 0  | 10 | 35 | \$513,812    |                |                    |               |             |            |            | 61,657                                    |
| Marina Corporation Yard (Electrical)        | 10       | 5  | 5   | 0    | 5  | 0  | 10 | 35 | \$335,954    |                |                    |               |             |            |            | 40,314                                    |
| Berkeley Health Clinic (Electrical)         | 5        | 5  | 5   | 0    | 0  | 0  | 5  | 20 | \$19,762     |                |                    |               |             |            |            |                                           |
| Public Safety Building (HVAC)               | 5        | 5  | 0   | 5    | 0  | 0  | 5  | 20 | \$19,762     |                |                    |               |             |            |            |                                           |
|                                             |          |    |     |      |    |    |    |    | \$889,290    | \$0            | \$0                | \$0           | \$0         | \$0        |            | \$101,972                                 |
| <b>Projects Completed or in Final Phase</b> |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| Citywide Irrigation System                  |          |    |     |      |    |    |    |    | \$741,075    | (150,000)      |                    |               |             |            | H          |                                           |
| Berkeley Mental Health Building             |          |    |     |      |    |    |    |    | \$1,976,200  | (500,000)      |                    |               |             |            | D          |                                           |
| Citywide Restroom Assessment                |          |    |     |      |    |    |    |    | \$148,215    |                |                    |               |             |            |            |                                           |
| Tom Bates Field Synthetic Turf Replacement  |          |    |     |      |    |    |    |    | \$311,252    |                |                    |               |             |            |            |                                           |
|                                             |          |    |     |      |    |    |    |    | \$3,176,742  | (\$650,000)    | \$0                | \$0           | \$0         | \$0        |            | \$0                                       |
| <b>Alternate Funding Sources</b>            |          |    |     |      |    |    |    |    |              |                |                    |               |             |            |            |                                           |
| West Berkeley Service Center                |          |    |     |      |    |    |    |    | \$148,215    | (148,215)      |                    |               |             |            | A          |                                           |
| Transfer Station Masterplan                 |          |    |     |      |    |    |    |    | \$500,000    | (500,000)      |                    |               |             |            |            |                                           |
|                                             |          |    |     |      |    |    |    |    | \$648,215    | (\$648,215)    | \$0                | \$0           | \$0         | \$0        |            | \$0                                       |

| Project                              | Criteria |    |     |      |    |    |    | Total     | Project Budget                                                                      | Program Reductions   | Option "A"           | Option "B"           | Option "C"          | Option "D" | Additional Escalation of 15% <sup>1</sup> |
|--------------------------------------|----------|----|-----|------|----|----|----|-----------|-------------------------------------------------------------------------------------|----------------------|----------------------|----------------------|---------------------|------------|-------------------------------------------|
|                                      | GB       | EQ | HSR | ES/D | PR | LV | FS |           |                                                                                     |                      |                      |                      |                     |            |                                           |
| <b>Other Program Reductions</b>      |          |    |     |      |    |    |    |           |                                                                                     |                      |                      |                      |                     |            |                                           |
| Bond transaction cost not incurred   |          |    |     |      |    |    |    | \$800,000 | (\$800,000)                                                                         |                      |                      |                      |                     |            |                                           |
| Over-estimation of art contributions |          |    |     |      |    |    |    | \$49,000  | (\$49,000)                                                                          |                      |                      |                      |                     |            |                                           |
|                                      |          |    |     |      |    |    |    | \$849,000 | (\$849,000)                                                                         | \$0                  | \$0                  | \$0                  | \$0                 | \$0        | \$0                                       |
| <b>Total Reductions</b>              |          |    |     |      |    |    |    |           | <b>(\$2,147,215)</b>                                                                | <b>(\$4,979,718)</b> | <b>(\$4,000,000)</b> | <b>(\$2,027,087)</b> | <b>\$0</b>          |            | <b>\$1,890,208</b>                        |
|                                      |          |    |     |      |    |    |    |           | Bond Program Approvals                                                              | 39,365,000           | 39,365,000           | 39,365,000           | 39,365,000          |            |                                           |
|                                      |          |    |     |      |    |    |    |           | Program Reductions                                                                  | (2,147,215)          | (2,147,215)          | (2,147,215)          | (2,147,215)         |            |                                           |
|                                      |          |    |     |      |    |    |    |           | Additional 15% Escalation in Construction Projects, not including Live Oak and NBSC | None                 | None                 | None                 | None                |            | 1,890,208                                 |
|                                      |          |    |     |      |    |    |    |           | Live Oak and NBSC Escalation and Energy Upgrades                                    | 2,700,000            | 1,500,000            | 2,700,000            | 2,700,000           |            |                                           |
|                                      |          |    |     |      |    |    |    |           | <b>Total Program Cost</b>                                                           | <b>\$39,917,785</b>  | <b>\$38,717,785</b>  | <b>\$39,917,785</b>  | <b>\$41,807,993</b> |            |                                           |
|                                      |          |    |     |      |    |    |    |           | Bond Proceeds                                                                       | 35,000,000           | 35,000,000           | 35,000,000           | 35,000,000          |            |                                           |
|                                      |          |    |     |      |    |    |    |           | Additional Funds Added                                                              |                      |                      | 3,000,000            | 7,000,000           |            |                                           |
|                                      |          |    |     |      |    |    |    |           | <b>Funding Gap</b>                                                                  | <b>\$4,917,785</b>   | <b>\$3,717,785</b>   | <b>\$1,917,785</b>   | <b>(\$192,007)</b>  |            |                                           |

- A. Project removed. Alternate funding pending.
- B. Proposed reduction of scope.
- C. Option "A"- savings due to funding from WETA and possible funding from PRW. Options "B" and "C"- savings due to funding from WETA only
- D. Potential savings due to bid received which was below under the Engineer's estimate
- E. Option "A" - reduce scope to Planning and Design. Option "C" - reduce scope to Conceptual
- F. T1 is funding a portion of these street projects and additional funding is needed to complete these streets through construction. Therefore, Option "A" is a proposal to remove these streets to focus on the three streets that have full funding through construction from T1 (Adeline, Hearst and Ward).
- G. Project is not feasible. Option "B" - Funds budgeted to this project used for other streets projects. Option "C"- Funds budgeted to this project will partially be used for other projects
- H. Due to bid which was under the estimate, contract amount was less than budgeted amount.

- Notes:**
1. **Additional escalation calculation:** Project Budget x 80% (estimated construction cost percentage) x 15% (estimated additional escalation)
  2. Bid received was 25% above construction budget.
  3. Engineer's estimate 32.5% above construction budget. Staff estimates bids will come in above engineer's estimate based on NBSC.

## Criteria and Description

|     | <u>Criteria*</u>                            | <u>Description</u>                                                                                                                                                                                                                                                                                                                                                 |
|-----|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| GB  | Greatest Benefit                            | Project provides impact to the greatest number of Berkeley Residents.                                                                                                                                                                                                                                                                                              |
| EQ  | Equity                                      | <b>Criteria applied after looking at full list of projects.</b> Consideration of geographic and demographic distribution of projects.                                                                                                                                                                                                                              |
| HSR | Health, safety, and resilience              | Project addresses public health and safety, such as improvements for disaster preparedness or emergency response.                                                                                                                                                                                                                                                  |
| ES  | Environmental Sustainability/<br>Durability | Project which improves water quality, have elements of green infrastructure, or also include energy, climate, or other zero waste goals. Project uses durable and sustainable technologies.                                                                                                                                                                        |
| PR  | Project readiness                           | Considering projects that are underway or already shovel-ready.                                                                                                                                                                                                                                                                                                    |
| LV  | Leveraging other funds                      | Project utilizes other funding sources.                                                                                                                                                                                                                                                                                                                            |
| FS  | Feasibility                                 | Consideration of the following:<br>(a) the ability to complete a project/sequencing: project does not have any known barriers, such as site conditions, funding, or permitting issues, that will substantially delay or prevent completion of the project<br>(b) renovating infrastructure before end of useful life to avoid larger expense or closure of amenity |

\*From Council Consent Item #4 (January 31, 2017) and Resolution 67,666-N.S.

## Scoring

| <u>Criteria</u>                                                 | <u>10 Points</u>                                                                                                                                                      | <u>5 Points</u>                                                                                                                                                      |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Criteria GB:</b> Greatest Benefit                            | Benefits residents Citywide and local communities/districts                                                                                                           | Benefits local communities/districts                                                                                                                                 |
| <b>Criteria EQ:</b> Equity                                      | Project located in geographically AND demographically under-represented area                                                                                          | Project located in geographically OR demographically under-represented area                                                                                          |
| <b>Criteria HSR:</b> Health, safety and resilience              | Major risk to the public if project is not done                                                                                                                       | Minor risk to the public if project is not done                                                                                                                      |
| <b>Criteria ES/D:</b> Environmental Sustainability / Durability | Has potential for considerable sustainability impact                                                                                                                  | Has potential for minor sustainability impact                                                                                                                        |
| <b>Criteria PR:</b> Project Readiness                           | Project already underway                                                                                                                                              | Adding additional elements to existing projects                                                                                                                      |
| <b>Criteria LV:</b> Leveraging other funds                      | Leverages other external funding source(s)                                                                                                                            | Leverages other internal funding source(s)                                                                                                                           |
| <b>Criteria FS:</b> Feasibility                                 | Meets both categories (a) the ability to complete a project/sequencing AND (b) renovating infrastructure before end of useful life to avoid larger expense or closure | Meets either category (a) the ability to complete a project/sequencing OR (b) renovating infrastructure before end of useful life to avoid larger expense or closure |





Public Works Commission

**20b**ACTION CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Public Works Commission

Submitted by: Jim McGrath, Parks and Waterfront Commission

Subject: Authorizing up to \$7 million in additional funding to complete Measure T1 Phase 1 projects

**BACKGROUND**

The Public Works Commission (PWC), along with the Parks and Waterfront Commission, are the lead commissions to oversee the implementation of Measure T1. They have expressed interest to be actively involved in the program implementation. Quarterly meetings with the T1 staff began August 2018 and five meetings have been held to date. The meetings have been very collaborative. In October 2018, the T1 staff informed the T1 sub-committees of a projected funding shortfall for the Phase 1 projects and the need to develop a change management process.

**PROJECTED PHASE 1 FUNDING SHORTFALL**

There are 33 approved projects in Phase 1. To accomplish the projects, as planned, the T1 staff estimates a funding shortfall of \$5.7 to 7.0 million. The shortfall comes primarily from bids received that are higher than engineer's estimates and additional cost escalation on projects. To address the shortfall, the following have been accomplished:

- Developed a change management process
- Developed criteria to prioritize projects
- Prepared a prioritization scorecard
- Prepared four options to address the shortfall The options are as follows:

Option A – Reduce project scope by \$5.7 million

- Fully fund the north Berkeley senior center and the Live Oak projects
- 16 projects have their scopes reduced

Option B – Reduce project scope by \$0.5 million

- The Live Oak project is substantially reduced, 3 other projects have their scopes reduced
- Fully fund the north Berkeley senior center

Option C – Request additional funding of \$3 million and reduce project scope by \$2.7 million

- Fully fund the north Berkeley senior center and the Live Oak projects
- 9 projects have their scopes reduced
- Request \$3 million of additional funding

Option D – Request additional funding of up to \$7 million

- Fully fund all phase 1 projects as planned
- Request up to \$7 million of additional funding

### **RECOMMENDATION**

The T1 team is requesting the PWC and the Parks and Waterfront Commission take action at their February meetings on their preferred course of action. The T1 team wants to make their recommendation to Council this spring.

The T1 sub-committees recommend that the PWC vote to endorse the following:

- We prefer Option D to meet the funding shortfall. The T1 staff has stated that it is possible to transfer funds from other City sources and to repay it with Phase 2 bond proceeds. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City.
- We are concerned that a disproportionate share of improvements has been allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented.
- We support identifying a green infrastructure project in Phase 1.
- We support implementing the 7 street improvement projects in Phase 1.

At a regular meeting of the Public Works Commission on Thursday, February 7, 2019, the commission took action to recommend Option D as described in the Recommendation above (M/S/C: McGrath/Dominguez/U): Ayes: Constantine, Erbe, Dominguez, Freiberg, Krpata, McGrath, Yep; Noes: None; Abstain: None; Absent: Hitchens.



Parks and Waterfront Commission

**20c**ACTION CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Parks and Waterfront Commission

Submitted by: Jim McGrath, Parks and Waterfront Commission

Subject: Authorizing up to \$7 million in additional funding to complete Measure T1 Phase 1 projects

**BACKGROUND**

The Public Works Commission (PWC), along with the Parks and Waterfront Commission, are the lead commissions to oversee the implementation of Measure T1. They have expressed interest to be actively involved in the program implementation. Quarterly meetings with the T1 staff began August 2018 and five meetings have been held to date. The meetings have been very collaborative. In October 2018, the T1 staff informed the T1 sub-committees of a projected funding shortfall for the Phase 1 projects and the need to develop a change management process.

**PROJECTED PHASE 1 FUNDING SHORTFALL**

There are 33 approved projects in Phase 1. To accomplish the projects, as planned, the T1 staff estimates a funding shortfall of \$5.7 to 7.0 million. The shortfall comes primarily from bids received that are higher than engineer's estimates and additional cost escalation on projects. To address the shortfall, the following have been accomplished:

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Option A – Reduce project scope by \$5.7 million

- Fully fund the north Berkeley senior center and the Live Oak projects
- 16 projects have their scopes reduced

Option B – Reduce project scope by \$0.5 million

- The Live Oak project is substantially reduced, 3 other projects have their scopes reduced
- Fully fund the north Berkeley senior center

Option C – Request additional funding of \$3 million and reduce project scope by \$2.7 million

- Fully fund the north Berkeley senior center and the Live Oak projects
- 9 projects have their scopes reduced
- Request \$3 million of additional funding

Option D – Request additional funding of up to \$7 million

- Fully fund all phase 1 projects as planned
- Request up to \$7 million of additional funding

### **RECOMMENDATION**

The T1 team is requesting the PWC and the Parks and Waterfront Commission take action at their February meetings on their preferred course of action. The T1 team wants to make their recommendation to Council this spring.

The T1 sub-committees recommend that the PWC vote to endorse the following:

- We prefer Option D to meet the funding shortfall. The T1 staff has stated that it is possible to transfer funds from other City sources and to repay it with Phase 2 bond proceeds. By choosing this option, we will maintain the momentum in the program and will accelerate infrastructure improvements in the City.
- We are concerned that a disproportionate share of improvements has been allocated to areas of the City north of University Avenue. We want to make sure that projects at the Francis Albrier Center, Willard and other areas south of University be implemented.
- We support identifying a green infrastructure project in Phase 1.
- We support implementing the 7 street improvement projects in Phase 1.

At a regular meeting of the Parks and Waterfront Commission on Wednesday, February 13, 2019, the commission took action to recommend Option D as described in the Recommendation above (M/S/C: McGrath/Fogel/U): Ayes: Brostrom; Diehm; Fogel; Kamen; Kawczynska; McGrath/ McKay; Targ; Wozniak; Noes: None; Abstain: None; Absent: None.





Energy Commission

**20d**

ACTION CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Berkeley Energy Commission  
Submitted by: Ryan Bell, Chairperson, Berkeley Energy Commission  
Subject: Recommendations for current T1 Phase 1 funding shortfalls

RECOMMENDATION

The Berkeley Energy Commission recommends the City Council integrate greenhouse gas (GHG) reduction goals, as stated in the Climate Emergency resolution adopted June 12, 2018, into the T1 funding priorities.

FISCAL IMPACTS OF RECOMMENDATION

Unknown.

CURRENT SITUATION AND ITS EFFECTS

Many measures supported by T1 have implications for future carbon emissions and fossil fuel use. We understand there is a budget shortfall for Phase One of the T1 projects, which may also affect Phase Two decisions. We are concerned that if the City reduces funding for T1 projects, aspects of those projects that reduce carbon emissions may be sacrificed. If the City is serious about reducing fossil fuel use and carbon emissions, we should not sacrifice those aspects.

At the January 23, 2019 meeting, the commission took the following action:

Action: Motion/Second (Leger/Stromberg) to recommend that the City Council integrate greenhouse gas reduction goals as stated in the (Climate Emergency resolution adopted June 12, 2018) into the T1 funding priorities.

Vote: Ayes –Leger, Bell, Patel, Weems, Paulos, Stromberg; Noes – None; Abstain – None; Absent – Luce, Schlachter.

BACKGROUND

The Fossil Free Berkeley and Climate Emergency resolutions asked the Energy Commission to consider actions “to further implement the Climate Action Plan and establish the goal of becoming a Fossil Fuel Free Berkeley” and to consider several actions the city might take as part of this review.

ENVIRONMENTAL SUSTAINABILITY

These recommendations are intended to accelerate citywide reductions in GHGs.

RATIONALE FOR RECOMMENDATION

While making recommendations for all of the actions the Council requested that the commission consider, the main recommendations for reducing GHG emissions focus on transportation and residential and commercial buildings as they are responsible for 98% of Berkeley's GHG emissions.

ALTERNATIVE ACTIONS CONSIDERED

None considered.

CITY MANAGER

The City Manager takes no position on the content and recommendations of the Commission's Report.

CONTACT PERSON

Billi Romain, Commission Secretary, 510-981-7432



Office of the City Manager

20e

ACTION CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Phillip L. Harrington, Director, Department of Public Works  
Subject: Contract: D.L. Falk Construction for North Berkeley Senior Center Seismic Upgrades and Renovations Project.

RECOMMENDATION

Adopt a Resolution:

1. Approving plans and specifications for the North Berkeley Senior Center Seismic Upgrades and Renovations Project, Specification No.19-11268-C;
2. Accepting the bid of D.L. Falk Construction as the lowest responsive and responsible bidder; and
3. Authorizing the City Manager to execute a contract and any amendments, extensions or other change orders until completion of the project in accordance with the approved plans and specifications, for an amount not to exceed \$8,320,400, which includes a contingency of \$756,400.

FISCAL IMPACTS OF RECOMMENDATION

Funding for this project \$8,320,400 is available in the FY 2019 budget:

- \$ 1,875,000 FEMA Fund (340)
- \$ 6,445,400 Measure T1 Fund (511)
- \$ 8,320,400

|                                               |                    |
|-----------------------------------------------|--------------------|
| Low bid by <u>D.L.Falk</u> Construction ..... | \$7,564,000        |
| <u>Contingency (10%)</u>                      | <u>\$756,400</u>   |
| <b>Total Construction Cost</b>                | <b>\$8,320,400</b> |

The contract management system number for this contract is CMS No. QDJJZ.

CURRENT SITUATION AND ITS EFFECTS

The North Berkeley Senior Center (NBSC) has been in operation for over 40 years and is in need of comprehensive upgrades. The work will include deferred maintenance upgrades to the interior and exterior of the property such as roof replacement, mechanical and plumbing improvements, electrical improvements, foundation upgrades, restroom improvements, painting, as well as new flooring, walls, doors, and finishes. The work also includes seismic upgrades to the building and the installation of a new fire sprinkler system. Additionally, there will be upgrades that enable improved senior

programming such as acoustical improvements, improved lighting, accessibility improvements, and a front patio remodel for better access and community space.

In November 2018, City staff procured one of the City's on-call architectural design firms, Noll & Tam, for the development of the contract documents to incorporate the aforementioned improvements and other needs identified through a public process for the delivery of a newly upgraded, welcoming, durable, and secure facility.

Following a twelve month design process, that included two community meetings, the Project's construction documents were completed and advertised for bids on Friday, December 21, 2018. Bids were opened on Thursday, January 24, 2019. The City received four bids, ranging from \$7,564,000 to \$8,742,720. D.L. Falk Construction was the lowest responsive and responsible bidder and their references were provided and checked out satisfactorily. Based on the results, staff recommends that a construction contract for the North Berkeley Senior Center Seismic Upgrades and Renovations project be awarded to D.L. Falk Construction.

#### BACKGROUND

The NBSC is a dynamic community gathering place that has been offering a wide array of services and social events for over 40 years. The NBSC has provided numerous programs and classes taught by the Berkeley Adult School as well as volunteer instructors. The NBSC also provides a lunch program for seniors, as well as field trips to a variety of locations across the East Bay.

Furthermore, the NBSC serves as a meeting place for community and commissions and as an affordable rental facility for other organizations looking to host a gathering in a large community hall.

In February 2016, the City was awarded a FEMA grant for the purpose of seismically upgrading the NBSC to an immediate occupancy facility. This allows usage of the NBSC during and immediately after an emergency event as a care and shelter sight. Following the passage of the T1 Bond Measure in the fall of 2016, additional funding was appropriated to the NBSC specifically for the comprehensive upgrade improvements to the facility.

#### ENVIRONMENTAL SUSTAINABILITY

The renovations of the NBSC will incorporate as many energy efficiency upgrades as feasible within the allotted budget such as a rooftop solar system, an HVAC system that incorporates heat pumps, and energy efficient windows and lights per the Berkeley Resilience Strategy and Climate Action Plan.

#### RATIONALE FOR RECOMMENDATION

Contracted services are required for this project as the City does not have the in-house expertise to complete this specialized work.

#### ALTERNATIVE ACTIONS CONSIDERED

None.

Contract: D.L. Falk Construction  
for North Berkeley Senior Center Seismic Upgrades and Renovation Project

ACTION CALENDAR  
March 26, 2019

CONTACT PERSON

Elmar Kapfer, Supervising Civil Engineer, (510) 981-6435  
Andrew Brozyna, Deputy Director of Public Works, (510) 981-6396

Attachments:

- 1: Resolution
- 2: Abstract of Bids

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

CONTRACT: D. L. FALK CONSTRUCTION FOR THE CITY OF BERKELEY'S NORTH BERKELEY SENIOR CENTER SEISMIC UPGRADES AND RENOVATIONS PROJECT

WHEREAS, the project consists of general building upgrades and seismic improvements to create a care and shelter facility; and

WHEREAS, The City has neither the labor nor the equipment necessary to undertake this renovation and seismic upgrade project; and

WHEREAS, an invitation for bids (Plans and Specifications No. 19-11268-C) was duly advertised, and D.L. Falk Construction was determined to be the lowest responsive and responsible bidder; and

WHEREAS, funds are available in the FY 2019 budget in the T1 Fund, and FEMA Fund.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that Plans and Specification No. 19-11268-C for the North Berkeley Senior Center Seismic Upgrades and Renovations Project are approved, and D.L. Falk Construction is determined to be the lowest responsive and responsible bidder.

BE IT FURTHER RESOLVED, that the Council of the City of Berkeley authorizes the City Manager to execute a contract and any amendments, extensions or change orders, until completion of the project in accordance with the approved plans and specifications with D.L. Falk Construction for the North Berkeley Senior Center Seismic Upgrades and Renovations Project at 1901 Hearst Ave., in an amount not to exceed \$8,320,400. A record signature copy of the agreement and any amendments will be on file in the Office of the City Clerk.



City of Berkeley  
Abstract of Bids Worksheet

Finance Department  
General Service Division

For North Berkeley Senior Ctr Seismic Upgrades + Renovations

Specification#: 19-11286-C

Engineer's Estimate:

Bid Date: 01/24/19

|    | Bidders                 | Base Bid     | Nuc Free | Work Force Comp | Opp. States | Living Wage | EBO | Bid Bond | Addendum     |
|----|-------------------------|--------------|----------|-----------------|-------------|-------------|-----|----------|--------------|
| 1  | A.S. & Allen            | 8,741,730.00 |          |                 |             |             |     | —        | ✓<br>1, 2, 3 |
| 2  | E. J. Brett             | 8,547,000.00 |          |                 |             |             |     | —        | —            |
| 3  | D.L. Talk Construction  | 7,564,000.00 |          |                 |             |             |     | —        | —            |
| 4  | Wickman Development     | 8,320,740.00 |          |                 |             |             |     | —        | —            |
| 5  | Sol Energy Construction |              |          |                 |             |             |     |          |              |
| 6  |                         |              |          |                 |             |             |     |          |              |
| 7  |                         |              |          |                 |             |             |     |          |              |
| 8  |                         |              |          |                 |             |             |     |          |              |
| 9  |                         |              |          |                 |             |             |     |          |              |
| 10 |                         |              |          |                 |             |             |     |          |              |

Bid Recorder: Aut Blaukens Trip 01/24/19

Bid Opener: [Signature] 1/24/19

Project Manager: [Signature] 1/24/19





ORDINANCE NO. 7,643-N.S.

STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS; AMENDING BERKELEY MUNICIPAL CODE SECTION 14.40.120

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

Section 1. That Berkeley Municipal Code Section 14.40.120 is amended to read as follows:

**14.40.120 No parking between two a.m. and five a.m.**

A. It is unlawful for any person to park any oversize or heavy duty commercial vehicle on any street between the hours of two a.m. and five a.m. for a greater length of time than one hour.

B. For the purpose of this section, oversize or heavy duty commercial vehicle shall mean a single vehicle or combination of vehicles having more than two axles, a single vehicle or combination of vehicles 20 feet or more in length, or a single vehicle or combination of vehicles six feet six inches or more in width, and shall include, but shall not be limited to dump trucks, moving vans, tractors, pole or pipe dollies, recreational vehicles (RVs), campers.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on February 28, 2019, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Bartlett, Droste, Hahn, Kesarwani, Wengraf, and Arreguin.

Noes: Davila, Harrison and Robinson.

Absent: None.





Lori Droste  
Councilmember, District 8

## REVISED AGENDA MATERIAL for Supplemental Packet 2

**Meeting Date:** February 26, 2019

**Item Number:** 21

**Item Description:** Missing Middle Report

**Submitted by:** Councilmember Lori Droste, Councilmember Ben Bartlett,  
Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

This item has been revised to include considerations for scaling of floor to area ratios, land value recapture.



Lori Droste  
Councilmember, District 8

**ACTION CALENDAR**  
February 26, 2019

**To:** Members of the City Council

**From:** Councilmember Lori Droste, Councilmember Ben Bartlett, Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

**Subject:** Missing Middle Report

**RECOMMENDATION**

Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to:

- Identifying where missing middle housing is optimal
- Allowing the possibility of existing houses/footprints/zoning envelopes to be divided into up to 4 units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase on site, 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>1</sup>
- Excluding very high fire severity zones as defined by Cal Fire and/or City of Berkeley.

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<sup>1</sup> City of Portland, <https://www.portlandoregon.gov/bps/article/711691>.

- Considering form-based zoning, which addresses the appropriate form, scale and massing of buildings as they relate to one another, as a potential strategy<sup>2</sup>,
- Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units
- Creating incentives for building more than one unit on larger than average lots,
- Considering provision of tenant and vulnerable low-income homeowner protections, demolition controls, and no net loss provisions
- Considering provisions that align with our land value recapture policy objectives to maximize affordability in Berkeley.

### **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 recently released 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 \$1.2 million (as of December 2018)—an increase of 65% over the median sale price in December 2013 of \$727,000. Similarly, Berkeley’s median rent index is \$3,663/month—a 54% increase since since December 2013.<sup>4</sup> The escalating rents coincide with an increase of 17% in Berkeley’s homeless population as documented in the 2015 and 2017 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 overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

#### *Low-Income Households*

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. According to the Urban Displacement Project, 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

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<sup>2</sup> Form-Based Codes Institute at Smart Growth America, 1152 15th Street NW Ste. 450 Washington, DC 20005. <https://formbasedcodes.org/definition/>

<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> Berkeley Homeless Point-in-Time Count and Survey Data, 2017. [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspx)

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 recently 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> In Berkeley, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings.<sup>8</sup> Without a substantial additional increase in funding for affordable housing, the vast majority of low-income individuals have to rely on the market.

### *Middle-Income Households*

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 2016, middle income households were those earning approximately \$45,000 to \$136,000 for a household of three.<sup>9</sup> However, in Berkeley, a similarly-sized family earning up to \$80,650 (80% Area Median Income) is considered low-income according to the U.S. Department of Housing and Urban Development.<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 nearly \$1,000,000 up front).<sup>11</sup> This means that many City of Berkeley employees couldn’t afford to live where they work: a community health worker (making \$63,600) and a janitor (making \$58,300) wouldn’t be able to afford a home. Neither would a fire captain (making \$142,000) with a

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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 Terner Center* <https://ternercenter.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> Kochhar, Rakesh. “The American middle class is stable in size, but losing ground financially to upper-income families,” 9/16/2018, Pew Research Center. <http://www.pewresearch.org/fact-tank/2018/09/06/the-american-middle-class-is-stable-in-size-but-losing-ground-financially-to-upper-income-families/>

<sup>10</sup> Berkeley Housing Authority, HUD Income Guidelines, effective April 1, 2018. [https://www.cityofberkeley.info/BHA/Home/Payment\\_Standards,\\_Income\\_Limits,\\_and\\_Utility\\_Allowance.aspx](https://www.cityofberkeley.info/BHA/Home/Payment_Standards,_Income_Limits,_and_Utility_Allowance.aspx)

<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#>

stay at home spouse. Even a police officer (making \$122,600) and a groundskeeper (making \$69,300), or two librarians (making \$71,700) couldn't buy a house.<sup>12</sup>

### *Families*

Many families are fleeing the Bay Area due to the high cost of living. According to a recently released study by the Turner Center for Housing Innovation, the income and racial patterns 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>13</sup> Rent for a two bedroom apartment in Berkeley costs approximately \$3,200/month<sup>14</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>15</sup> Consequently, many families are paying well over \$60,000 for living and childcare expenses alone.

### *Homelessness*

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.<sup>16</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>17</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 2017 point-in-time count, Berkeley had approximately 972 individuals experiencing homelessness on any given night.<sup>18</sup> In order to help homeless individuals get housed, the City needs to create more homes. 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>19</sup>

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<sup>12</sup> City of Berkeley Human Resources, “Job Descriptions” accessed 2.4.2019

<http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

<sup>13</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>14</sup> Berkeley Rentals, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>15</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>16</sup> The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

<sup>17</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>18</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2017. [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspxn](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspxn)

<sup>19</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

## BACKGROUND

### Missing Middle

*What is missing middle housing?*

Missing middle housing is a term used to describe:

1. a range of clustered or multi-unit housing types compatible in scale with single family homes<sup>20</sup> and/or
2. housing types naturally affordable to those earning between 80-120% of the area median income.

While this legislation aims to address the former, by definition and design, missing middle housing will always be less expensive than comparable single family homes in the same neighborhood, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is \$1.2 million dollars, which is out of reach for the majority of working people.<sup>21</sup> Approximately half of Berkeley's housing stock consists of single family units<sup>22</sup> and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, only wealthy households can afford homes in Berkeley.

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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)

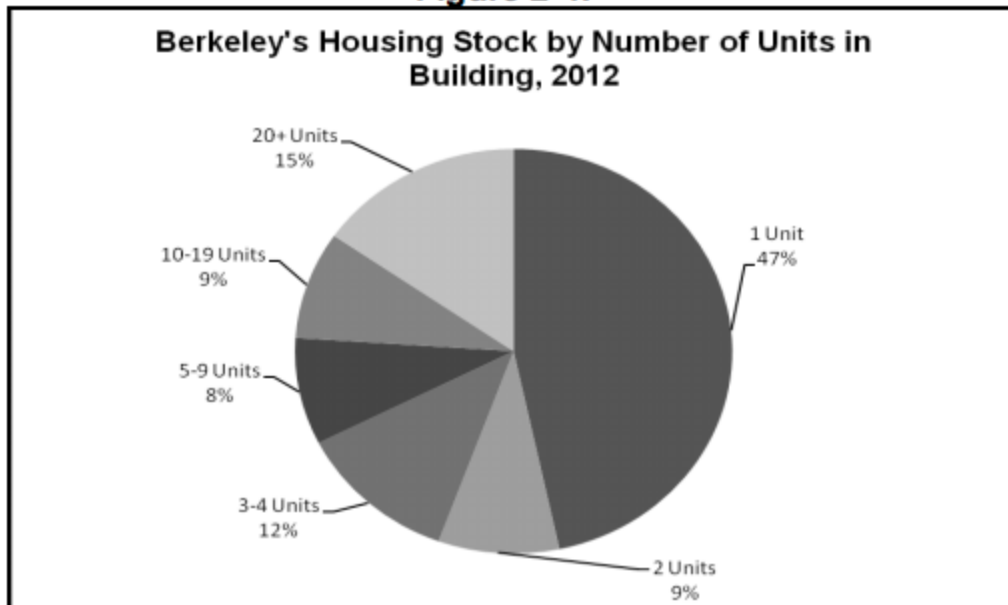
<sup>20</sup> Parolek, Dan. Opticos Design. <http://missingmiddlehousing.com/>

<sup>21</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>22</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

Missing middle housing includes duplexes, triplexes, courtyard apartments, bungalow courts, and multiplexes that often house people with a variety of incomes. These housing types generally have small- to medium-sized footprints and are often three 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 family homes. Missing middle homes were severely limited in other districts by zoning changes initiated in 1973.

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>23</sup> Additionally, missing middle housing is not permitted in areas zoned R1 (single family family only). Other factors that may prevent the creation of missing middle housing include onerous lot coverage ratios and excessive setback and parking requirements.<sup>24</sup>

<sup>23</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)

<sup>24</sup> Ibid.

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

Prior to the 1970s, a variety of missing middle housing was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. Many triplexes, etc exist in areas now zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2). These areas are now some of the most expensive parts of our city—especially on a per-unit basis.

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.<sup>25</sup> While many people are aware of this sordid piece of Berkeley history, less know about Mason-McDuffie Company's use of zoning laws and racially-restrictive property deeds and covenants to prevent people of color from living in east Berkeley.

Mason-McDuffie race-restrictive covenants state: "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>26</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the "disastrous effects of uncontrolled development"<sup>27</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>28</sup>

After *Buchanan v Wareley* 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)

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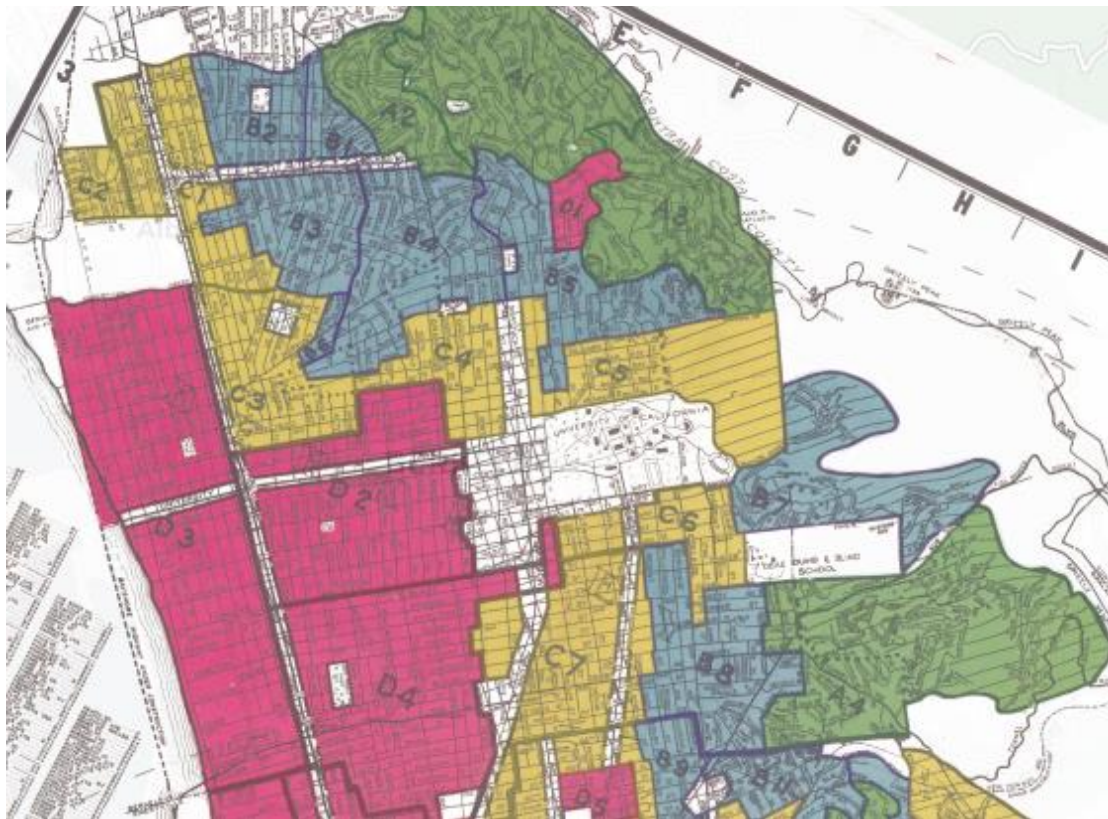
<sup>25</sup> Wollenberg, *Berkeley, A City in History*, 2008.

<sup>26</sup> Claremont Park Company Indenture, 1910

<sup>27</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>

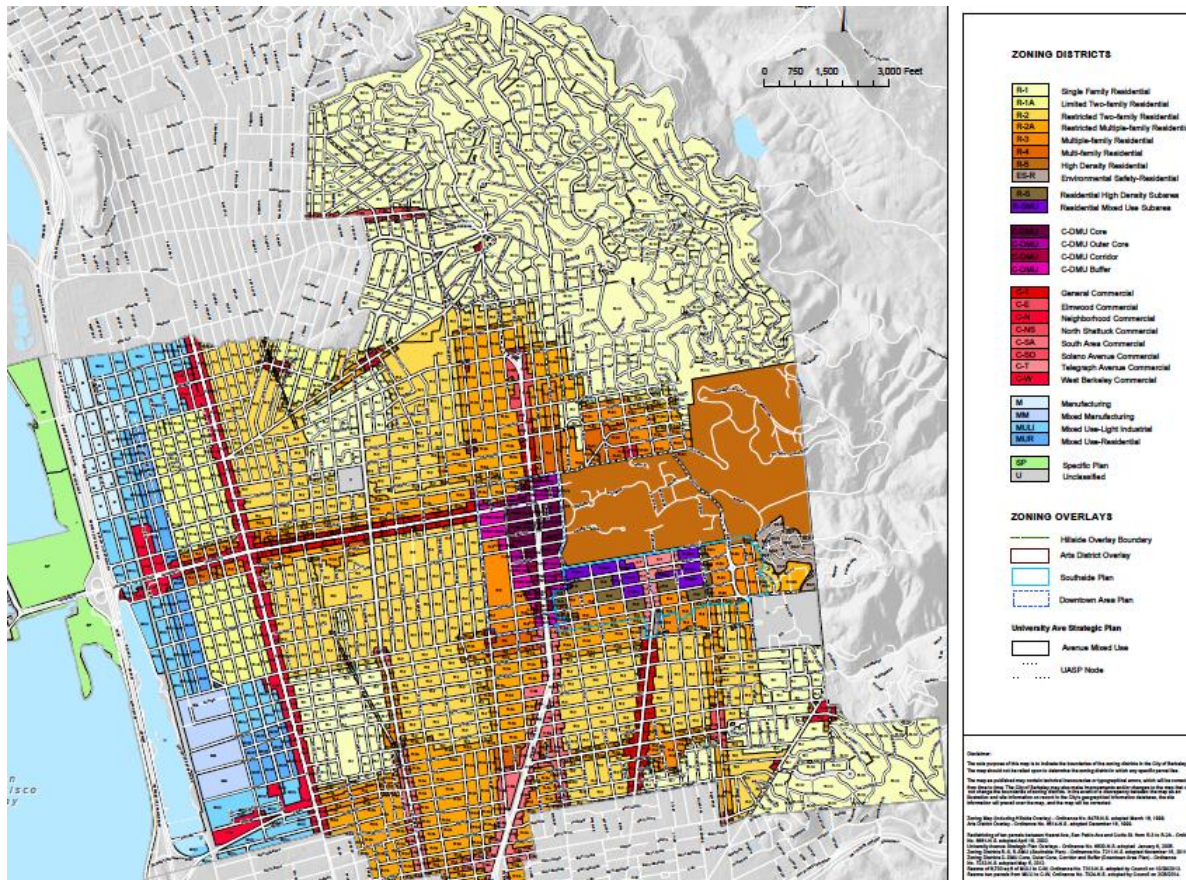
<sup>28</sup> Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. *Berkeley Planning Journal*, 3(1). Retrieved from <https://escholarship.org/uc/item/26b8d8zh>

neighborhoods. These maps enabled discriminatory lending practices (later called 'redlining') and allowed lenders to enforce local segregation standards.<sup>29</sup>



Thomas Bros Map of Oakland, Berkeley, Alameda, San Leandro, Piedmont Emeryville Albany.  
<https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&advview=full> in Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., "Mapping Inequality," *American Panorama*, ed. Robert K. Nelson and Edward L. Ayers, accessed January 24, 2019.

<sup>29</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 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.]

Most cities still retain the vestiges of exclusionary zoning practices. By restricting desirable areas to single-family homes (and banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses), the current zoning map dictates that only wealthier families will be able to live or rent in Berkeley. Today, with the median sale price at \$1.2 million, this de-facto form of segregation is even more pronounced.

According to the data mapped by the 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>30</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

### **TENANT AND ANTI-DISPLACEMENT STRATEGIES**

The types of zoning modifications that may result from the requested report could, as discussed above, significantly increase Berkeley’s housing stock with units that are more affordable to low- and middle-income residents. However, staff’s report should consider possible side effects and ways that policy can be crafted to prevent and mitigate negative externalities which could affect tenants and low-income homeowners. Steps must be taken to address the possibility that altering, demolishing, remodeling, or moving existing structures doesn’t result in the widespread displacement of Berkeley tenants or loss of rent-controlled units. Staff should consider what measures are needed in conjunction with these zoning changes (e.g. strengthening the demolition ordinance, tenant protections or assistance, no net loss requirements or prohibiting owners from applying if housing was occupied by tenants five years preceding date of application).

### **ALTERNATIVE ACTIONS CONSIDERED**

We considered an urgency ordinance but after consultation with City of Berkeley staff, we are recommending a report on potential zoning changes to inform future policy decisions, as opposed to immediate zoning revisions.

### **IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT**

Not applicable as this item requests an analytical report.

### **FINANCIAL IMPLICATIONS**

Staffing or consulting costs to analyze zoning code and produce the report.

### **ENVIRONMENTAL SUSTAINABILITY**

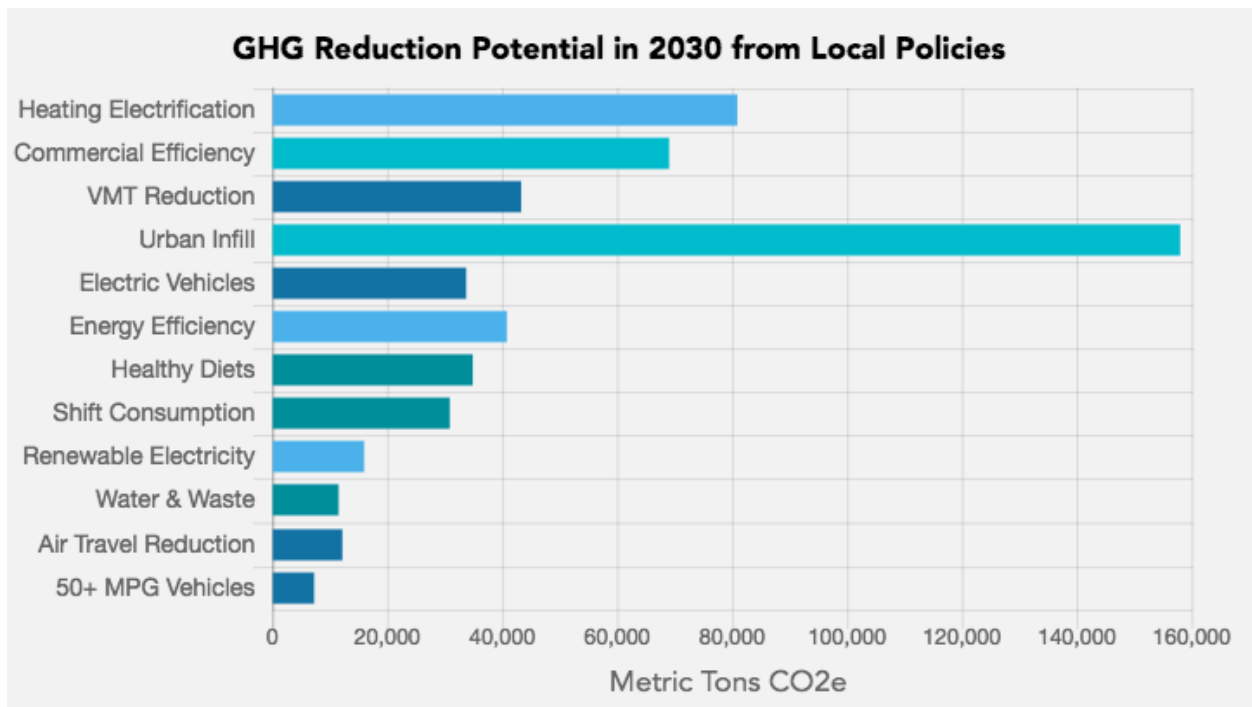
Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>31</sup> The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short,

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<sup>30</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>31</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>

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:**

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>

## **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.*





Lori Droste  
Councilmember, District 8

## **REVISED AGENDA MATERIAL for Supplemental Packet 1**

**Meeting Date:** February 26, 2019

**Item Number:** 22

**Item Description:** **Missing Middle Report**

**Submitted by:** Councilmember Lori Droste, Councilmember Ben Bartlett,  
Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

This item has been revised to include considerations for scaling of floor to area ratios, land value recapture.



Lori Droste  
Councilmember, District 8

**ACTION CALENDAR**  
February 26, 2019

**To:** Members of the City Council

**From:** Councilmember Lori Droste, Councilmember Ben Bartlett, Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

**Subject:** Missing Middle Report

**RECOMMENDATION**

Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to:

- Identifying where missing middle housing is optimal/~~should be permitted~~
- Allowing the possibility of existing houses/footprints/zoning envelopes to be divided into up to 4 units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase on site, 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>1</sup>
- Excluding very high fire severity zones as defined by ~~the~~ Cal Fire and/or City of Berkeley.

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<sup>1</sup> City of Portland, <https://www.portlandoregon.gov/bps/article/711691>.

- Considering form-based zoning as a potential strategy<sup>2</sup>,
- Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units
- Creating incentives for building more than one unit on larger than average lots,
- Considering provision of tenant protections, demolition controls, and no net loss provisions
- Considering provisions that align with our land value recapture policy objectives to maximize affordability in Berkeley.

### **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 recently released 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 \$1.2 million (as of December 2018)—an increase of 65% over the median sale price in December 2013 of \$727,000. Similarly, Berkeley’s median rent index is \$3,663/month—a 54% increase since since December 2013.<sup>4</sup> The escalating rents coincide with an increase of 17% in Berkeley’s homeless population as documented in the 2015 and 2017 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 overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

#### *Low-Income Households*

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. According to the Urban Displacement Project, 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-

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<sup>2</sup> Form-Based Codes Institute at Smart Growth America, 1152 15th Street NW Ste. 450 Washington, DC 20005. <https://formbasedcodes.org/definition/>

<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> Berkeley Homeless Point-in-Time Count and Survey Data, 2017. [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspx)

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 recently 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> In Berkeley, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings.<sup>8</sup> Without a substantial additional increase in funding for affordable housing, the vast majority of low-income individuals have to rely on the market.

### *Middle-Income Households*

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 2016, middle income households were those earning approximately \$45,000 to \$136,000 for a household of three.<sup>9</sup> However, in Berkeley, a similarly-sized family earning up to \$80,650 (80% Area Median Income) is considered low-income according to the U.S. Department of Housing and Urban Development.<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 nearly \$1,000,000 up front).<sup>11</sup> This means that many City of Berkeley employees couldn’t afford to live where they work: a community health worker (making \$63,600) and a janitor (making \$58,300) wouldn’t be able to afford a home. Neither would a fire captain (making \$142,000) with a

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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> Kochhar, Rakesh. “The American middle class is stable in size, but losing ground financially to upper-income families,” 9/16/2018, Pew Research Center. <http://www.pewresearch.org/fact-tank/2018/09/06/the-american-middle-class-is-stable-in-size-but-losing-ground-financially-to-upper-income-families/>

<sup>10</sup> Berkeley Housing Authority, HUD Income Guidelines, effective April 1, 2018. [https://www.cityofberkeley.info/BHA/Home/Payment\\_Standards,\\_Income\\_Limits,\\_and\\_Utility\\_Allowance.aspx](https://www.cityofberkeley.info/BHA/Home/Payment_Standards,_Income_Limits,_and_Utility_Allowance.aspx)

<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#>

stay at home spouse. Even a police officer (making \$122,600) and a groundskeeper (making \$69,300), or two librarians (making \$71,700) couldn't buy a house.<sup>12</sup>

### *Families*

Many families are fleeing the Bay Area due to the high cost of living. According to a recently released study by the Turner Center for Housing Innovation, the income and racial patterns 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>13</sup> Rent for a two bedroom apartment in Berkeley costs approximately \$3,200/month<sup>14</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>15</sup> Consequently, many families are paying well over \$60,000 for living and childcare expenses alone.

### *Homelessness*

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.<sup>16</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>17</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 2017 point-in-time count, Berkeley had approximately 972 individuals experiencing homelessness on any given night.<sup>18</sup> In order to help homeless individuals get housed, the City needs to create more homes. 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>19</sup>

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<sup>12</sup> City of Berkeley Human Resources, “Job Descriptions” accessed 2.4.2019

<http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

<sup>13</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>14</sup> Berkeley Rentals, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>15</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>16</sup> The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

<sup>17</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>18</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2017. [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspxn](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspxn)

<sup>19</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

## BACKGROUND

### Missing Middle

*What is missing middle housing?*

Missing middle housing is a term used to describe:

1. a range of clustered or multi-unit housing types compatible in scale with single family homes<sup>20</sup> and/or
2. housing types naturally affordable to those earning between 80-120% of the area median income.

While this legislation aims to address the former, by definition and design, missing middle housing will always be less expensive than comparable single family homes in the same neighborhood, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is \$1.2 million dollars, which is out of reach for the majority of working people.<sup>21</sup> Approximately half of Berkeley's housing stock consists of single family units<sup>22</sup> and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, only wealthy households can afford homes in Berkeley.

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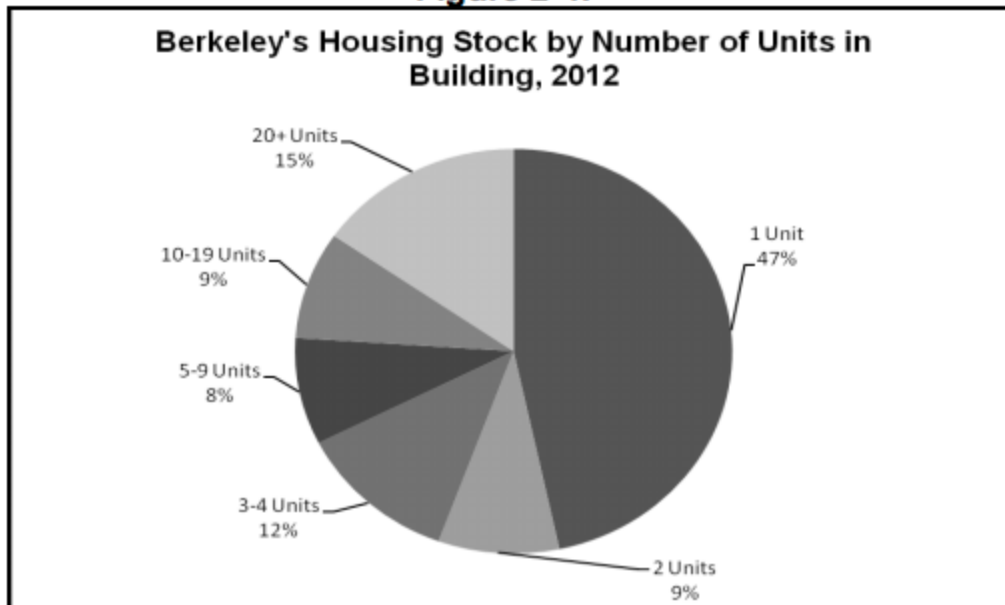
President and Fellows of Harvard College and the Massachusetts Institute of Technology.  
[https://urbanpolicy.berkeley.edu/pdf/qrs\\_restat01pb.pdf](https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf)

<sup>20</sup> Parolek, Dan. Opticos Design. <http://missingmiddlehousing.com/>

<sup>21</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>22</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

Missing middle housing includes duplexes, triplexes, courtyard apartments, bungalow courts, and multiplexes that often house people with a variety of incomes. These housing types generally have small- to medium-sized footprints and are often three 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 family homes. Missing middle homes were severely limited in other districts by zoning changes initiated in 1973.

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>23</sup> Additionally, missing middle housing is not permitted in areas zoned R1 (single family family only). Other factors that may prevent the creation of missing middle housing include onerous lot coverage ratios and excessive setback and parking requirements.<sup>24</sup>

<sup>23</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)

<sup>24</sup> Ibid.

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

Prior to the 1970s, a variety of missing middle housing was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. Many triplexes, etc exist in areas now zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2). These areas are now some of the most expensive parts of our city—especially on a per-unit basis.

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.<sup>25</sup> While many people are aware of this sordid piece of Berkeley history, less know about Mason-McDuffie Company's use of zoning laws and racially-restrictive property deeds and covenants to prevent people of color from living in east Berkeley.

Mason-McDuffie race-restrictive covenants state: "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>26</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the "disastrous effects of uncontrolled development"<sup>27</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>28</sup>

After *Buchanan v Wareley* 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)

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<sup>25</sup> Wollenberg, *Berkeley, A City in History*, 2008.

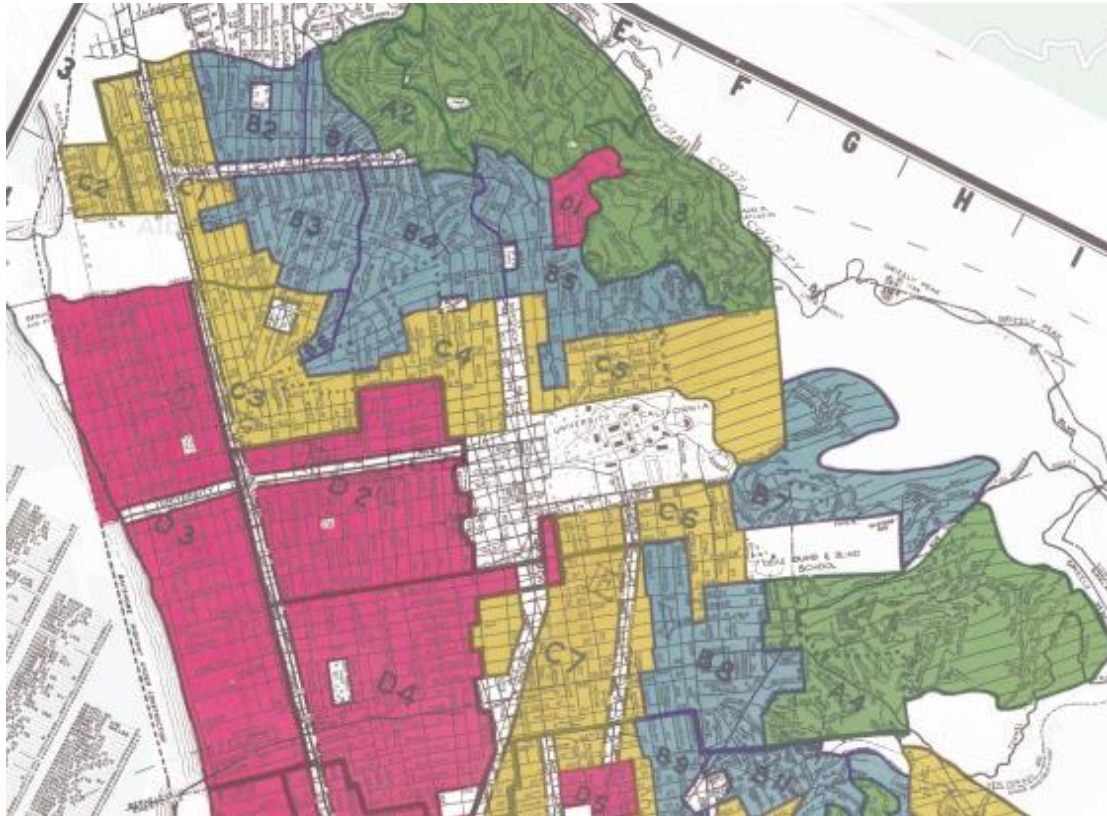
<sup>26</sup> Claremont Park Company Indenture, 1910

<sup>27</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>28</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>

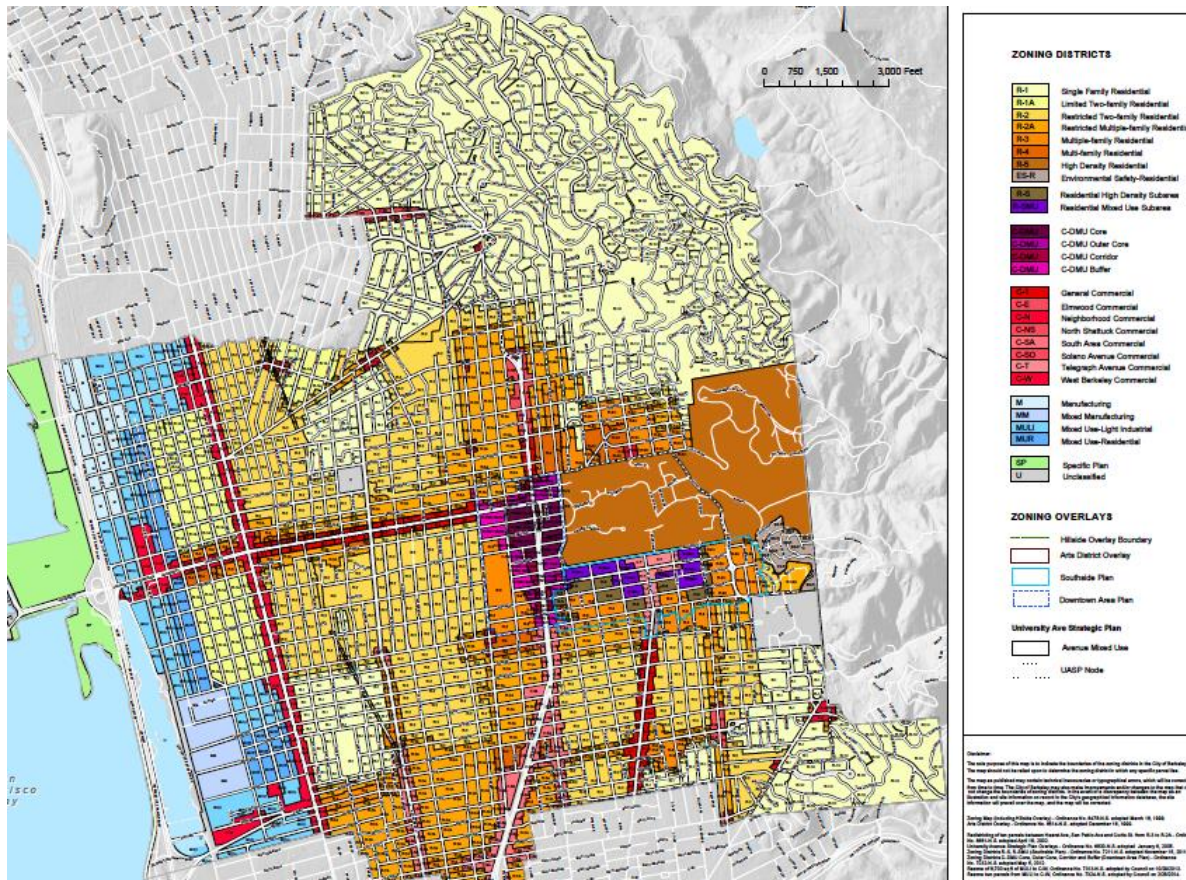


neighborhoods. These maps enabled discriminatory lending practices (later called 'redlining') and allowed lenders to enforce local segregation standards.<sup>29</sup>



Thomas Bros Map of Oakland, Berkeley, Alameda, San Leandro, Piedmont Emeryville Albany. <https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&advview=full> in Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., "Mapping Inequality," *American Panorama*, ed. Robert K. Nelson and Edward L. Ayers, accessed January 24, 2019.

<sup>29</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 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.]

Most cities still retain the vestiges of exclusionary zoning practices. By restricting desirable areas to single-family homes (and banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses), the current zoning map dictates that only wealthier families will be able to live or rent in Berkeley. Today, with the median sale price at \$1.2 million, this de-facto form of segregation is even more pronounced.

According to the data mapped by the 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>30</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

### **TENANT AND ANTI-DISPLACEMENT STRATEGIES**

The types of zoning modifications that may result from the requested report could, as discussed above, significantly increase Berkeley's housing stock with units that are more affordable to low- and middle-income residents. However, staff's report should consider possible side effects and ways that policy can be crafted to prevent and mitigate negative externalities which could affect tenants and low-income homeowners. Steps must be taken to address the possibility that altering, demolishing, remodeling, or moving existing structures doesn't result in the widespread displacement of Berkeley tenants or loss of rent-controlled units. Staff should consider what measures are needed in conjunction with these zoning changes (e.g. strengthening the demolition ordinance, tenant protections or assistance, no net loss requirements or prohibiting owners from applying if housing was occupied by tenants five years preceding date of application).

### **ALTERNATIVE ACTIONS CONSIDERED**

We considered an urgency ordinance but after consultation with City of Berkeley staff, we are recommending a report on potential zoning changes to inform future policy decisions, as opposed to immediate zoning revisions.

### **IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT**

Not applicable as this item requests an analytical report.

### **FINANCIAL IMPLICATIONS**

Staffing or consulting costs to analyze zoning code and produce the report.

### **ENVIRONMENTAL SUSTAINABILITY**

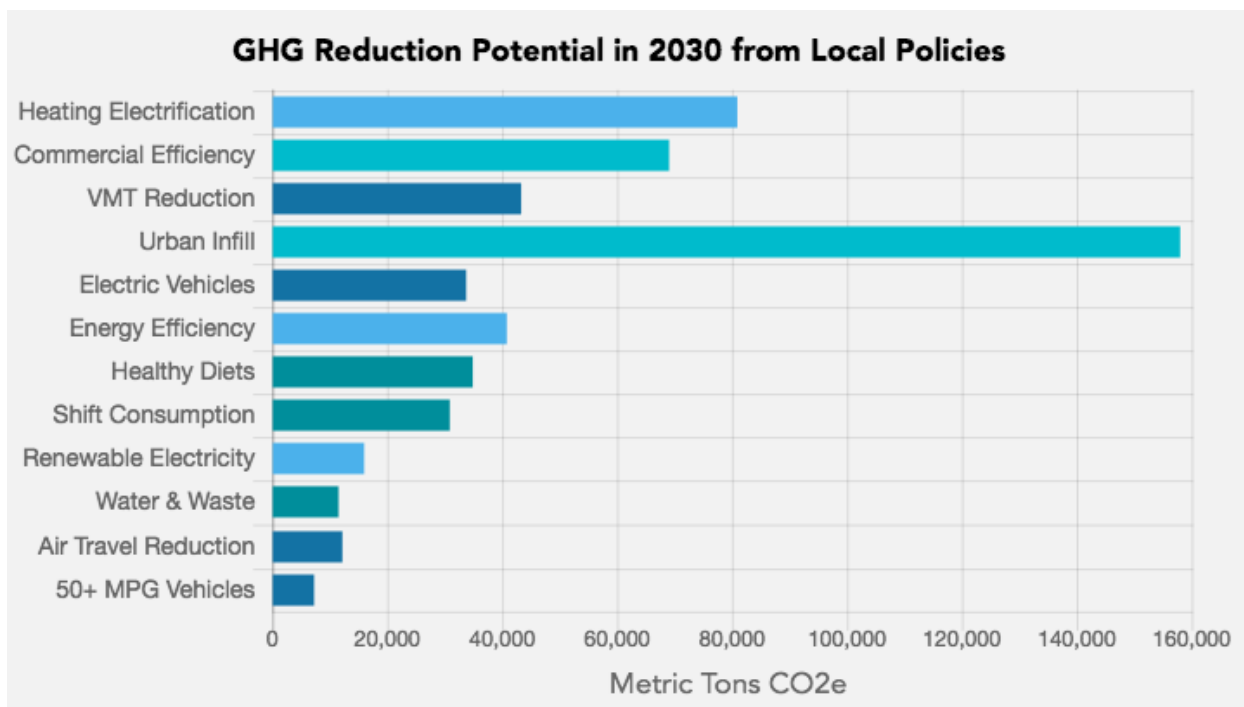
Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>31</sup> The most impactful local policy to potentially reduce greenhouse gas consumption by 2030 is urban infill. In short,

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<sup>30</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>31</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>

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:**

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>

## **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.*



Lori Droste  
Berkeley City Councilmember, District 8

## **ACTION CALENDAR**

March 26, 2019

*(Continued from February 26, 2019)*

**To:** Members of the City Council

**From:** Councilmember Lori Droste, Councilmember Ben Bartlett, Councilmember Rigel Robinson, and Councilmember Rashi Kesarwani

**Subject:** Missing Middle Report

### RECOMMENDATION

Refer to the City Manager to bring back to Council a report of potential revisions to the zoning code to foster a broader range of housing types across Berkeley, particularly missing middle housing types (duplexes, triplexes/fourplexes, courtyard apartments, bungalow courts, townhouses, etc.), in areas with access to essential components of livability like parks, schools, employment, transit, and other services.

Report should include, but is not limited to:

- Identifying where missing middle housing is optimal/should be permitted
- Allowing the possibility of existing houses/footprints/zoning envelopes to be divided up to 4 units
- Excluding very high fire severity zones as defined by the CalFire and/or the City of Berkeley
- Considering form-based zoning as a potential strategy<sup>1</sup>

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<sup>1</sup> Form-Based Codes Institute at Smart Growth America, 1152 15th Street NW Ste. 450 Washington, DC 20005. <https://formbasedcodes.org/definition/>

- Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units
- Creating incentives for building more than one unit on larger than average lots
- Provision of tenant protections, demolition controls, and no net loss provisions

### **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 recently released a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.<sup>2</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 \$1.2 million (as of December 2018)—an increase of 65% over the median sale price in December 2013 of \$727,000. Similarly, Berkeley’s median rent index is \$3,663/month—a 54% increase since since December 2013.<sup>3</sup> The escalating rents coincide with an increase of 17% in Berkeley’s homeless population as documented in the 2015 and 2017 point-in-time counts.<sup>4</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*

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. According to the Urban Displacement Project, 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>5</sup>

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<sup>2</sup> Metropolitan Transportation Commission, 2018. <http://www.vitalsigns.mtc.ca.gov/>

<sup>3</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>4</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2017. [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspx)

<sup>5</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)



Although residents of Berkeley recently 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>6</sup> In Berkeley, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings.<sup>7</sup> Without a substantial additional increase in funding for affordable housing, the vast majority of low-income individuals have to rely on the market.

### *Middle-Income Households*

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 2016, middle income households were those earning approximately \$45,000 to \$136,000 for a household of three.<sup>8</sup> However, in Berkeley, a similarly-sized family earning up to \$80,650 (80% Area Median Income) is considered low-income according to the U.S. Department of Housing and Urban Development.<sup>9</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 nearly \$1,000,000 up front).<sup>10</sup> This means that many City of Berkeley employees couldn’t afford to live where they work: a community health worker (making \$63,600) and a janitor (making \$58,300) wouldn’t be able to afford a home. Neither would a fire captain (making \$142,000) with a stay at home spouse. Even a police officer (making \$122,600) and a groundskeeper (making \$69,300), or two librarians (making \$71,700) couldn’t buy a house.<sup>11</sup>

### *Families*

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<sup>8</sup> Kochhar, Rakesh. “The American middle class is stable in size, but losing ground financially to upper-income families,” 9/16/2018, Pew Research Center. <http://www.pewresearch.org/fact-tank/2018/09/06/the-american-middle-class-is-stable-in-size-but-losing-ground-financially-to-upper-income-families/>

<sup>9</sup> Berkeley Housing Authority, HUD Income Guidelines, effective April 1, 2018. [https://www.cityofberkeley.info/BHA/Home/Payment\\_Standards,\\_Income\\_Limits,\\_and\\_Utility\\_Allowance.aspx](https://www.cityofberkeley.info/BHA/Home/Payment_Standards,_Income_Limits,_and_Utility_Allowance.aspx)

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<sup>11</sup> City of Berkeley Human Resources, “Job Descriptions” accessed 2.4.2019 <http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

Many families are fleeing the Bay Area due to the high cost of living. According to a recently released study by the Turner Center for Housing Innovation, the income and racial patterns 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>12</sup> Rent for a two bedroom apartment in Berkeley costs approximately \$3,200/month<sup>13</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>14</sup> Consequently, many families are paying well over \$60,000 for living and childcare expenses alone.

### *Homelessness*

High housing costs also lead to California having among the highest rates of poverty in the nation at 19%.<sup>15</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>16</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 2017 point-in-time count, Berkeley had approximately 972 individuals experiencing homelessness on any given night.<sup>17</sup> In order to help homeless individuals get housed, the City needs to create more homes. 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>18</sup>

## **BACKGROUND**

### **Missing Middle**

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<sup>12</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>13</sup> Berkeley Rentals, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>14</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>15</sup> The U.S. Census The Supplemental Poverty Measure adjusts thresholds based on cost of living indexes.

<sup>16</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>17</sup> Berkeley Homeless Point-in-Time Count and Survey Data, 2017. [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspxn](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspxn)

<sup>18</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)

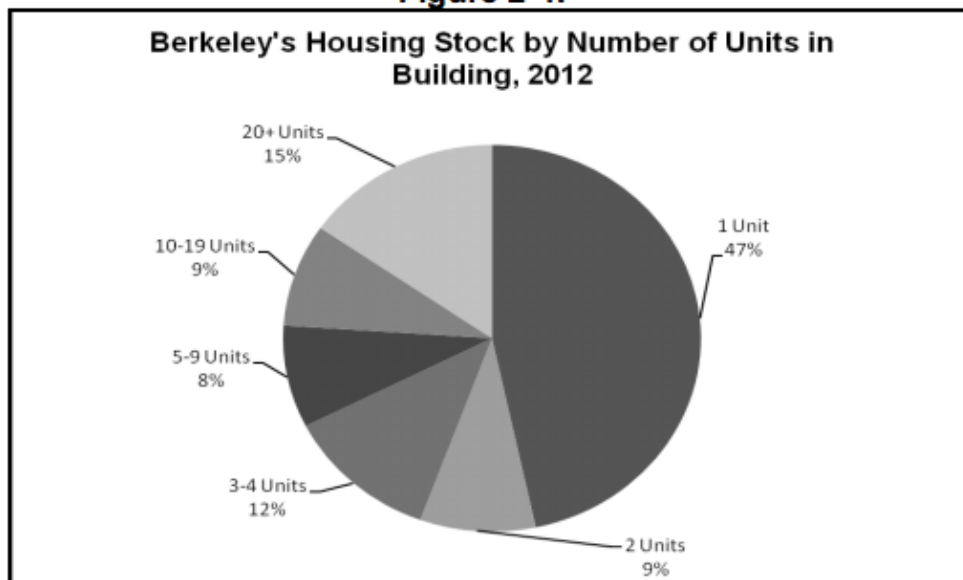
### What is missing middle housing?

Missing middle housing is a term used to describe:

1. a range of clustered or multi-unit housing types compatible in scale with single family homes<sup>19</sup> and/or
2. housing types naturally affordable to those earning between 80-120% of the area median income.

While this legislation aims to address the former, by definition and design, missing middle housing will always be less expensive than comparable single family homes in the same neighborhood, leading to greater accessibility to those earning median, middle, or lower incomes. Currently, the median price of a single family home in Berkeley is \$1.2 million dollars, which is out of reach for the majority of working people.<sup>20</sup> Approximately half of Berkeley's housing stock consists of single family units<sup>21</sup> and more than half of Berkeley's residential land is zoned in ways that preclude most missing middle housing. As a result, today, only wealthy households can afford homes in Berkeley.

**Figure 2-4:**



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

Missing middle housing includes duplexes, triplexes, courtyard apartments, bungalow courts, and multiplexes that often house people with a variety of incomes. These housing types generally have small- to medium-sized footprints and are often three

<sup>19</sup> Parolek, Dan. Opticos Design. <http://missingmiddlehousing.com/>

<sup>20</sup> Berkeley Home Prices and Values, <https://www.zillow.com/berkeley-ca/home-values/>

<sup>21</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)

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 before they were banned in districts only allowing single family homes and missing middle homes were severely limited in other districts by zoning changes initiated in 1973.

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>22</sup> Additionally, missing middle housing is not permitted in areas zoned R1 (single family family only). Other factors that may prevent the creation of missing middle housing include onerous lot coverage ratios and excessive setback and parking requirements.<sup>23</sup>

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

Prior to the 1970s, a variety of missing middle housing was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. Many triplexes, etc exist in areas now zoned for single family residential (R-1), limited two-family residential (R-1A), and restricted two-family residential (R-2). These areas are now some of the most expensive parts of our city—especially on a per-unit basis.

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.<sup>24</sup> While many people are aware of this sordid piece of Berkeley history, less know about Mason-McDuffie Company’s use of zoning laws and racially-restrictive property deeds and covenants to prevent people of color from living in east Berkeley.

Mason-McDuffie race-restrictive covenants state: “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>25</sup> In

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<sup>22</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)

<sup>23</sup> Ibid.

<sup>24</sup> Wollenberg, *Berkeley, A City in History*, 2008.

<sup>25</sup> Claremont Park Company Indenture, 1910

1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the “disastrous effects of uncontrolled development”<sup>26</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>27</sup>

After *Buchanan v Wareley* 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>28</sup>

The images below compare a HOLC-era 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.

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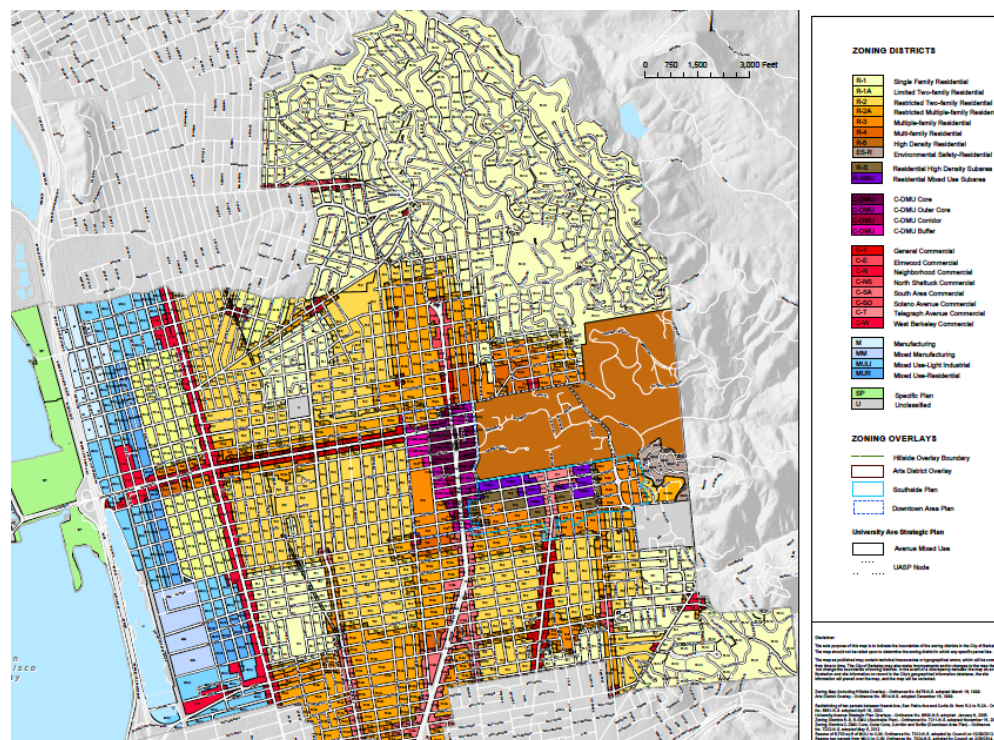
<sup>26</sup> Lory, Maya Tulip. “A History of Racial Segregation, 1878–1960.” *The Concord Review*, 2013. <http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>27</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>28</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)



Thomas Bros Map of Oakland, Berkeley, Alameda, San Leandro, Piedmont Emeryville Albany. 29



<sup>29</sup>Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., "Mapping Inequality," *American Panorama*, ed. Robert K. Nelson and Edward L. Ayers, accessed January 24, 2019. <https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adviev=full in>

Most cities still retain the vestiges of exclusionary zoning practices. By restricting desirable areas to single-family homes (and banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses), the current zoning map dictates that only wealthier families will be able to live or rent in Berkeley. Today, with the median sale price at \$1.2 million, this de-facto form of segregation is even more pronounced.

According to the data mapped by the 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>30</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

### **ALTERNATIVE ACTIONS CONSIDERED**

We considered an urgency ordinance but after consultation with City of Berkeley staff, we are recommending a report on potential zoning changes to inform future policy decisions, as opposed to immediate zoning revisions.

### **IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT**

Not applicable as this item requests an analytical report.

### **FINANCIAL IMPLICATIONS**

Staffing or consulting costs to analyze zoning code and produce the report.

### **ENVIRONMENTAL SUSTAINABILITY**

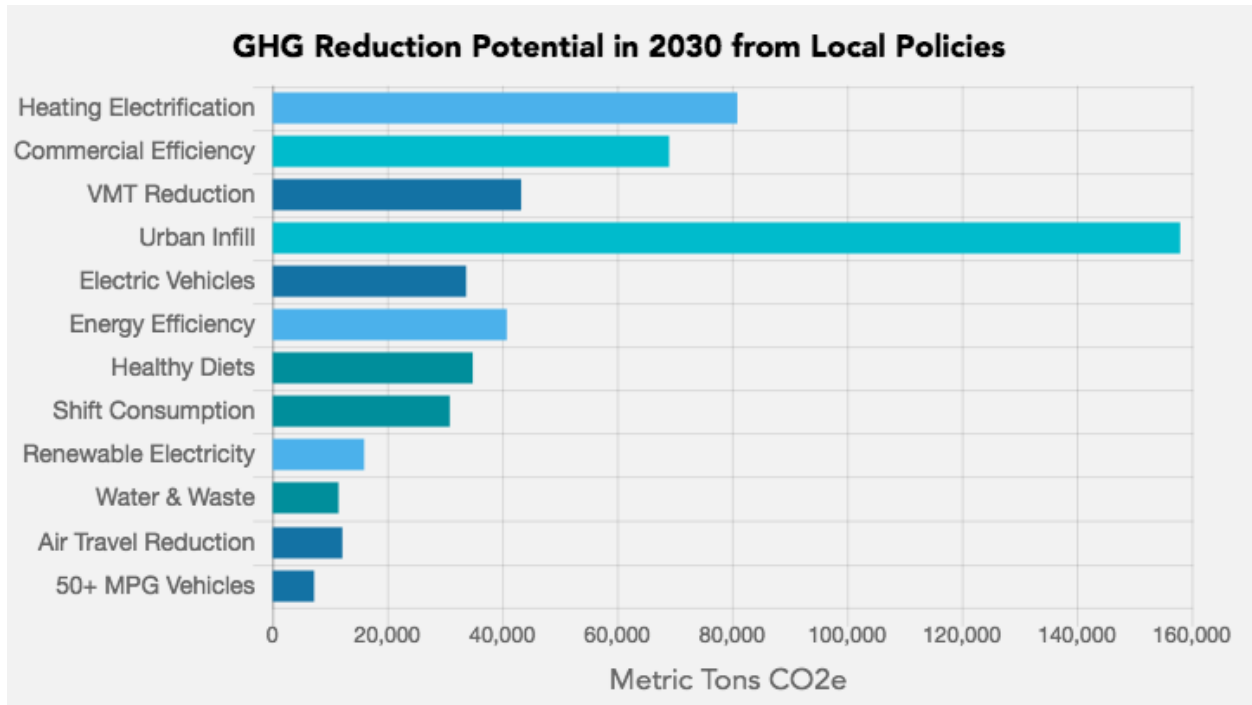
Berkeley declared a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. Last year, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>31</sup> The most impactful local policy to

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<sup>30</sup> Zuk, M., & Chapple, K. (2015). Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>31</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>

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:**

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>



## **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.*



Office of the Mayor

ACTION CALENDAR

March 26, 2019

To: Honorable Members of the City Council  
 From: Mayor Jesse Arreguín and Councilmembers Sophie Hahn and Susan Wengraf  
 Subject: Referral to City Manager to Scope Process and Estimate Cost of New General Plan

RECOMMENDATION

Referral to the City Manager to return to City Council with an outline of the process for creating a new City of Berkeley General Plan. The cost for the first two years of work will be included in the report for consideration during the upcoming 2020-2021 Budget Process.

BACKGROUND

The Berkeley General Plan is a comprehensive and long-range statement of community priorities and values developed to guide public decision-making in future years. The Plan's goals, objectives and policies serve as a guide for day-to-day decisions that are essential for responsive government. Decisions made by the Berkeley City Council and its advisory boards and commissions about the physical development of the City should be consistent with the goals, objective and policies of the Plan. The City Council and Planning Commission use the General Plan when evaluating land use changes and making funding and budget decisions. It is also used by the Zoning Adjustments Board and City staff to help regulate development proposals and make decisions on projects. The policies of the Plan apply to all property, both public and private within the Berkeley city limits. It should be noted that the University of California and other State/County agencies are not legally obligated to comply with the Plan, but will reference the document.

Berkeley's General Plan was adopted by the City Council on December 18, 2001 following a process that started in the mid-1990's resulting in a first draft completed by staff dated May 1999. A second draft was sent to the Planning Commission, following several community meetings in October 1999. In October 2000, the Planning Commission published a Planning Commission Draft General Plan. On July 11, 2001 the Planning Commission concluded its work on the update of the Berkeley General Plan and forwarded its recommended General Plan to the City Council for consideration and adoption.

It is customary, and in some communities required, for General Plans to be updated every

15 – 20 years. There have been significant changes within the City of Berkeley since the last General Plan update in 2001.

### CURRENT SITUATION

Berkeley's General plan was designed to work with the City's more detailed Area Plans which were amendments to the 1977 Master Plan. The Area Plan goals and policies must be consistent with the General Plan goals and policies and both must be considered when making decisions. In order to achieve this consistency some amendments were made and those amendments were specifically identified in the General Plan.

Since the adoption of the General Plan in 2001, several new specific plans have been approved by the Berkeley City Council. These include the adoption of the Downtown Area Plan and the Southside Plan. There are other significant area plans currently in process: the Adeline Corridor Plan and planning for the North Berkeley BART station that was initialized by AB2923 that sets new rules for development on BART property -- mostly on parking lots that surround many of the agency's stations. Additionally, a planning process is being considered for the San Pablo Corridor.

Other plans that have impacted the City of Berkeley are the current University of California 2020 LRDP. This agreement between the City of Berkeley and the University will expire in 2020 and the University is beginning the process for a new Long Range Development Plan.

In January 2018, the City of Berkeley had a population of 121,874 based on the California Department of Finance 2018. This exceeds the General Plan EIR's population that forecasted 116,359 by the year 2020. Current estimates provided by the Metropolitan Transportation Commission project a 1% annual growth throughout the Bay Area through 2040.

Due to the significant growth in population, there is currently a housing deficit. This especially impacts those residents that cannot afford new market rate housing and has contributed directly to the spike in homelessness. Additionally, the University has not created housing to (1) support the student population anticipated in the 2020 LRDP, plus (2) house the additional 11,000 students the University has absorbed over the plan projections.

Climate Change is rapidly progressing and, if not checked, will severely impact the future of our planet. Consideration for the impending impacts on sustainability, human and non-human subsistence and infrastructure demands must be addressed by the community at large.

Finally, the question of consistency and clarity between the General Plan and Zoning Code should be resolved. Specific deficiencies and lack of definition such as design and detriment standards, inclusionary housing requirements and open space allocation (Quimby Act Fees) should be determined. In order to ensure that the City of Berkeley can plan for its future, a new community process should begin for the development of a new General Plan with a goal of adopting an update plan by the end of 2023.

### FINANCIAL IMPLICATIONS

City Manager to provide a cost estimate for City Council to consider funding through the 2020 - 2021 Budget Process that will support a new General Plan process.

ENVIRONMENTAL SUSTAINABILITY

Berkeley's Climate Action Plan and sustainability goals will be incorporated into a new General Plan.

STRATEGIC PLAN

Supports long-term goals #1 through #7

CONTACT PERSON

Mayor Jesse Arreguin, (510) 981-7100





Office of the City Manager

24

ACTION CALENDAR  
 March 26, 2019  
 (Continued from February 26, 2019)

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services Department

Subject: Referral Response: 1000 Person Plan to Address Homelessness

SUMMARY

On any given night in Berkeley, there are nearly 1,000 people experiencing homelessness. The City of Berkeley has implemented a number of programs to respond to this crisis, but data from the homeless point-in-time count indicate that, for the past several years, homelessness has nonetheless steadily increased. To understand the resources and interventions required to end homelessness in Berkeley--both by housing the currently unhoused population and by preventing inflow of future homelessness--the City Council asked staff to create a 1000 Person Plan on April 4, 2017. This report responds to that referral.

While all homeless people lack stable housing, not everyone needs the same level of support to obtain housing. To end homelessness in Berkeley, the city needs targeted investments in a variety of interventions, ensuring every person who experiences homelessness in Berkeley receives an appropriate and timely resolution according to their level of need (i.e., a homeless population of size “functional zero”). HHCS staff analyzed ten years of administrative homelessness data to understand the personal characteristics of people experiencing homelessness in Berkeley, how they are interacting with homeless services in Berkeley, and the factors most predictive of exiting homelessness without eventually returning back to the system.

From these analyses, HHCS staff estimate that over the course of a year, nearly 2000 people experience homelessness in Berkeley. This population has been growing because the population is increasingly harder to serve (longer histories of homelessness and more disabilities) and because housing is too expensive for them to afford on their own.

The types and sizes of all interventions to help Berkeley reach “functional zero” by 2028 are described in this report. To end homelessness for 1000 people in Berkeley, the original referral directive from City Council, the city will need up-front investments in targeted homelessness prevention, light-touch housing problem-solving, rapid

rehousing, and permanent subsidies, with a cost of \$16 - \$19.5 million up front and an annual ongoing expense of between roughly \$12 – 15 million. These analyses suggest, though, that a 1000 Person Plan will not address the entire homeless population in Berkeley, but rather a portion of it. To end homelessness for all who experience it in Berkeley over the coming ten years, staff estimate an annual expense of between \$17 and \$21 million in year one, growing annually to a total expense of between \$31 and \$43 million by 2028. Staff recommend four strategic goals for the Council to consider in moving Berkeley's current system more rapidly towards a goal of functional zero.

These projected costs are in addition to Berkeley's current general fund expenditures on homeless services. Detailed analyses and cost estimates supporting staff's conclusions and recommendations are included as Attachment 1.

## CURRENT SITUATION AND ITS EFFECTS

### *Overview of homelessness in Berkeley*

Most homeless services experts agree that the HUD Point-in-Time (PIT) count actually undercounts the number of people experiencing homelessness in a community. If Berkeley's estimated homeless population size of 972 is based on a single night of data, that number will have missed anyone who lost their housing the next night, or who ended their homelessness the night before. This static, one-night number provides insufficient data to plan for a budgetary response to homelessness over the course of several fiscal years.

To address this, HHCS staff obtained 42,500 individual records from the county's Homeless Management Information System (HMIS), HUD's standardized homeless database where information on every person touching the service system in Berkeley is recorded. These records date to 2006, the first year Berkeley programs began participating in HMIS, and represent the most comprehensive data source available for such a project. Using these data, staff found:

- Over the course of a year in Berkeley, nearly 2000 people experience homelessness of some duration. This number has been steadily growing at an average rate of 10% every 2 years and is highly disproportionate in its racial disparity: since 2006, 65% of homeless service users in Berkeley identify as Black or African American, compared to a general population of less than 10%.
- Despite this growing population, Berkeley's homeless services beds<sup>1</sup> have been serving fewer unique households over time—even after accounting for the change in system bed capacity over time. The average number of unique individuals served per system bed has dropped from a high in 2011 of over 5 to under 3 by 2017.

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<sup>1</sup> This includes emergency shelter, transitional housing, and rapid rehousing programs.



- The same individuals appear to be cycling in and out of homelessness in Berkeley. When looking only at clients who have used the system multiple times we find that the average number of times these individuals return back to homeless services has been increasing 9% year over year, and has increased 160% since 2006 (from 1.4 previous entries in 2006 to 3.5 in 2017). Moreover, these homeless people are finding it harder to exit those beds to permanent housing year over year; the average number of days they are spending in homeless services beds has been increasing an average of 13% year over year, from just under 1 month in 2006 to just under 3 months in 2017.
- The likelihood of returning back to homelessness in Berkeley after previously exiting the system for a permanent housing bed is increasing over time, irrespective of personal characteristics or the type of service accessed. Importantly, among those who previously exited the system to permanent housing in the past but eventually returned, the largest percentage of those exits had been to unsubsidized rental units. None of this is surprising given the extreme increase in the East Bay's rental housing costs over the past several years, and the volatility that creates for poor and formerly homeless people struggling to make rent.
- A comprehensive regression analysis found that having any disability (physical, developmental, substance-related, etc.) is by far the single largest reason a person is unlikely to exit homelessness to housing and subsequently not return back to homelessness.<sup>2</sup> Unfortunately, the percentage of homeless Berkeleyans self-reporting a disability of any kind has increased greatly, from 40% in 2006 to 68% by 2017--meaning the population is increasingly comprised of those least likely to permanently end their homelessness with the services available.
- Per Federal mandate, all entities receiving HUD funding for homeless services are required to create a Coordinated Entry System (CES) that prioritizes limited housing resources for those who are most vulnerable. However, Berkeley's Federal permanent supportive housing (PSH) budget, which supports housing for 260 homeless people, can place only about 25-30 new people every year. To help alleviate this lack of permanent housing subsidy, Berkeley experimented with prioritizing rapid rehousing for its highest-needs individuals at the Hub. We found that rapid rehousing can be used as a bridge to permanent housing subsidies, but, used alone, cannot prevent some of the highest needs people from returning to homelessness.

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<sup>2</sup> We regressed all final permanent exits from Berkeley's homeless services system (i.e., an exit to permanent housing with no eventual return back to the system at some point thereafter) on a variety of personal characteristics, controlling for type of service accessed and year of enrollment in that project. Those reporting any disability were over 730% less likely to permanently exit the system. Race and gender had no discernable pattern of effects on outcomes.

Staff conclude from these findings that **the system has not created sufficient permanently subsidized housing resources to appropriately service a Coordinated Entry System**, and has instead relied on rapid rehousing to exit them from the system. Overreliance on rapid rehousing with high needs individuals in a tight housing market—all of which we found evidence for in these data—is a strategy that is tenuous in the long-run, as HHCS has previously explained in an April 2018 Information Report.<sup>3</sup>

#### *Overview of a Homelessness Response Plan*

In offering a response to this situation, HHCS staff offers the following:

- First, even with a fully-funded system, some people will continue to experience housing crises over time, and some of those people may lose their housing as a result. What can be designed, however, is a homelessness response system that renders homelessness brief, rare, and non-recurring: that is, a system that quickly triages each person based on their need and assigns them to an appropriate level of support to resolve their housing crisis as quickly as possible. A homeless population of ‘zero’ on any given night cannot be planned for, but a homeless population of ‘functional zero’ can: in other words, if the system’s capacity to resolve homelessness is greater than the rate at which people are becoming homeless over time, then long-term, chronic episodes of homelessness can be eliminated.
- Second, while every homeless person lacks permanent housing, not everyone needs the same level of support to obtain and retain new housing. A “right-sized” system offers the right amount of a variety of interventions, ranging from targeted homelessness prevention, to light-touch, one time assistance like housing problem solving assistance, to rapid-rehousing, to permanently subsidized housing.
- Third, not all permanent housing subsidies are the same. Some high-needs individuals require a deep subsidy (whereby they pay 30% of their income, whatever that may be, towards rent, with subsidy to cover the rest). However, many others would be able to remain permanently housed with a shallow subsidy (for example, \$600 per month). In projecting costs, we offer two permanent subsidy options for Council to consider: an option with 100% deep subsidies for everyone who needs ongoing support, and an option that has some subsidy variation.<sup>4</sup>

<sup>3</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-24\\_Item\\_39\\_Rapid\\_Rehousing\\_What\\_it\\_Can.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-24_Item_39_Rapid_Rehousing_What_it_Can.aspx)

<sup>4</sup> Specifically, we assume that 1/3 will receive set-aside access to below market-rate (BMR) affordable units already subsidized for those at 50% AMI; 1/4 will receive market-rate apartments with subsidies covering 50% of the rent; 1/5 will receive a flat subsidy of \$600 per month; and 1/4 will receive permanent

*Addressing homelessness for 1000 people in Berkeley—the 1000 Person Plan*

To permanently end homelessness for 1000 people in Berkeley, we estimate that the resources outlined below will be required. Detailed information on calculations, assumptions, and cost projections are available in Attachment 1.

| <b>Inventory - slots needed</b>                                                                  |                     |
|--------------------------------------------------------------------------------------------------|---------------------|
| Targeted homeless prevention slots                                                               | 295                 |
| Light touch, no financial assistance slots                                                       | 211                 |
| Rapid Rehousing slots                                                                            | 211                 |
| Permanent Supportive Housing (PSH) slots                                                         | 218                 |
| Permanently subsidized housing (PH) slots                                                        | 361                 |
| Outreach (FTE)                                                                                   | 11                  |
| <b>Cost (all line items assume 20% nonprofit admin expenses and associated city staff costs)</b> |                     |
| Targeted homeless prevention slots                                                               | \$1,326,230         |
| Rapid Rehousing slots                                                                            | \$2,000,112         |
| PH + PSH subsidies and case management -- 100% deep subsidies*                                   | \$15,347,297        |
| PH + PSH subsidies and case management -- with subsidy variation*                                | \$11,891,616        |
| Outreach costs                                                                                   | \$891,000           |
| <b>TOTAL ANNUAL COST -- 100% deep subsidies</b>                                                  | <b>\$19,564,639</b> |
| <b>TOTAL ANNUAL COST -- with subsidy variation</b>                                               | <b>\$16,108,958</b> |

\* Represents an ongoing annual expense

This amounts to an up-front expense ranging from roughly \$16 - \$19.5 million up front, with an annual ongoing expense of between roughly \$12 – 15 million for permanent subsidies.

A plan for solving homelessness for 1,000 people, the original Council referral, does not transform Berkeley's homeless system into a system that achieves "functional zero". To achieve functional zero, more resources would be needed as outlined below.

*Ending all homelessness in Berkeley – A plan for Functional Zero by 2028*

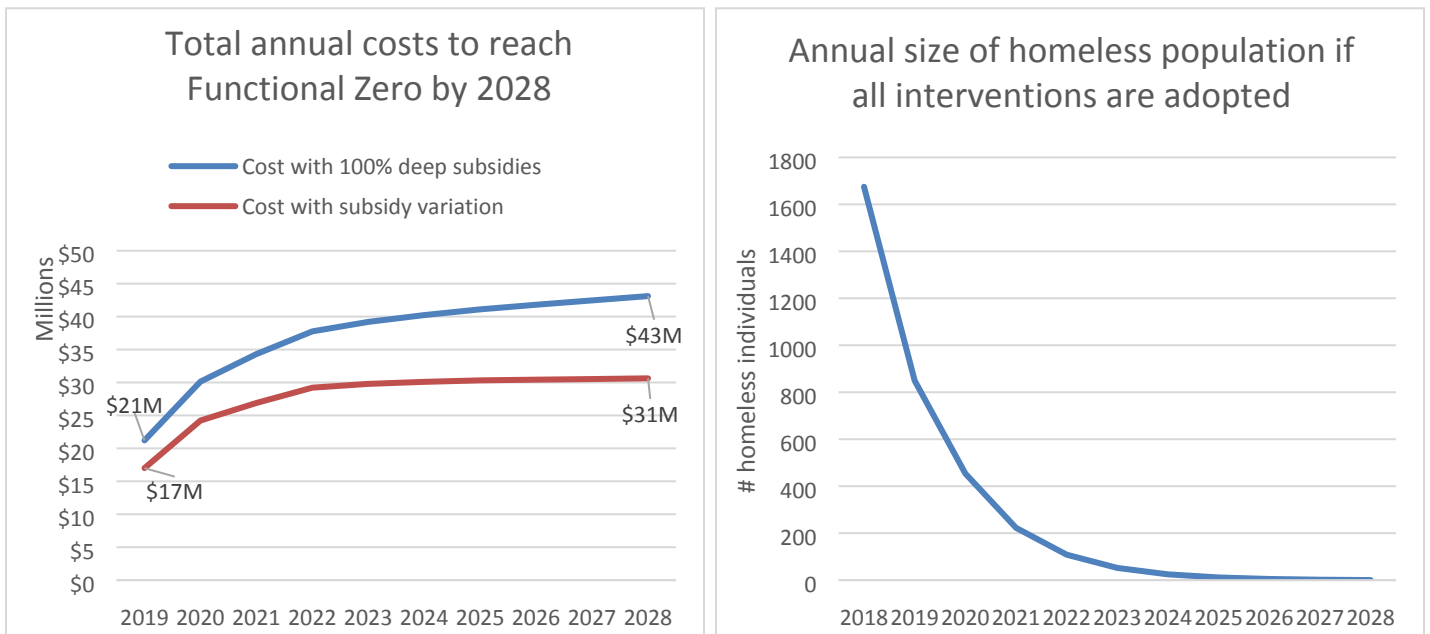
A plan to sustainably end homelessness in Berkeley within 10 years would require:

- An investment in targeted homelessness prevention of roughly \$1.5M annually;

subsidy in market-rate apartments at 30% of their income. These proportions align with those used in the 2018 EveryOne Home Strategic Plan update.

- An investment in light-touch, housing problem-solving for rapid rehousing of roughly \$2M in year one, shrinking to roughly \$700,000 by 2028;
- An investment in permanently subsidized housing of:
  - \$17M in year one, growing to \$42M annually by 2028, for 100% deep subsidies;
  - \$13M in year one, growing to \$29M by 2028, for a varied approach to permanent subsidy.

This amounts to a total annual expense—and corresponding effect on the homeless population—as follows:



Detailed information on calculations, assumptions, and cost projections are available in Attachment 1.

Since this option requires an investment of substantially more resources than currently available, staff propose the following 5-year goals as a starting point.

*Strategic Goals for Addressing Homelessness in Berkeley*

Given the complexity and cost of homelessness in Berkeley, staff recommend that Council prioritize the following strategic goals over the following 5 years:

1. *Transform Berkeley’s shelter system into a housing-focused, low-barrier Navigation System.* Staff project that this can be accomplished with \$4.8 million in

2019, growing annually with costs of living to reach \$5 million annually by 2023. To be maximally successful, this strategy relies on increased County and State funding for permanent housing subsidies. We believe, however, that shelters could improve housing outcomes with additional financial resources. Navigation centers, which are open 24 hours and allow more flexibility for clients, are more appealing to Berkeley's highest-needs street homeless population.

2. *Reduce chronic homelessness by 50% by 2023.* Staff project a total annual cost of \$1.3 million beginning 2019, growing to \$5.1 million annually in 2023 and beyond, to fund both deep and shallow permanent housing subsidies.
3. *Enhance the efficacy of homeless prevention resources with pilot interventions specifically targeted to need.* Staff project that this can be accomplished with \$1.45 million in 2019, growing with costs of living to reach \$1.52 million annually by 2023. For reasons detailed in the report, we recommend Council adopt this goal only after making progress on goals 1 and 2. Ideally, this would be funded by Alameda County, given the regional nature of housing and homelessness.
4. *Continue to implement changes to Berkeley's Land Use, Zoning, and Development Review Requirements for new housing with an eye towards alleviating homelessness.* If present economic trends continue, the pace with which new housing is currently being built in Berkeley will likely not allow for a declining annual homeless population. Berkeley should continue to streamline development approval processes and reform local policies to help increase the overall supply of housing available, including affordable housing mandated by inclusionary policies.

We project that the annual costs of achieving all these goals (with the exception of goal #4, which cannot be quantified at this time) is \$7.8 million in year one, growing to \$12.7 million annually by 2023. Detailed information on calculations, assumptions, and cost projections are available in Attachment 1.

#### BACKGROUND

On April 4, 2017, Council voted unanimously to take the following action: "Refer to the City Manager the creation of a 1,000 Person Plan to address the homeless crisis in Berkeley as described in the attached Pathways Project report, including prevention measures and a comprehensive approach that addresses the long-term needs of the City's approximately 1,000 homeless individuals. The plan should include the assessment, development and prioritization of all homeless housing projects currently underway; all homeless housing referrals from Council; housing and service opportunities that may be proposed by the City Manager; and a comprehensive plan to purchase, lease, build or obtain housing and services for Berkeley's homeless. The 1,000 Person Plan shall be presented to the City Council by the end of 2017 and include a preliminary budget and proposed sources of income to fund capital and operational needs over a 10-year period."

#### ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects associated with strategic goals #1, 2, and 3 recommended in this report. The adoption of strategic goal #4 may have potentially significant environmental impacts, such as the reduction in vehicle emissions as commuters have access to denser housing along public transit corridors, case managers have less distance to travel when performing home visits to their formerly homeless clients, etc. Precise effects depend on specific actions taken.

POSSIBLE FUTURE ACTION

The City may consider adopting one or more of the four strategic goals outlined above.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

True costs of all four goals are unknown, but staff estimate that the 5-year strategic goals 1-3 will cost \$7.8 million in year one, growing to \$12.7 million annually by 2023.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator, HHCS, 510-981-5435.

Attachments:

1: Analyses, assumptions, and cost projections.

## Attachment 1: Analyses, Assumptions, and Cost Projections Supporting the 1000 Person Plan Referral Response

To perform these analyses, HHCS has over the past several months:

- Obtained 42,500 individual records from the county's Homeless Management Information System (HMIS), HUD's standardized homeless database where information on every person touching the service system in Berkeley is recorded. These records date to 2006, the first year Berkeley programs began participating in HMIS, and represent the most comprehensive data source available for such a project.
- Partnered with an intern from the UC Berkeley Goldman School of Public Policy to perform intensive data preparation and preliminary analyses.
- Aligned analytical methods with EveryOne Home (Alameda County's collective impact organization to end homelessness) and the City of Oakland, which have both undertaken similar sets of analyses, to ensure comparability to other strategic plans to address homelessness in the East Bay.

This attachment is structured in three parts.

- **Part I** presents comprehensive analyses of Berkeley's Homeless Services System using HMIS data, finding that homeless services users in Berkeley are generally getting more disabled and experiencing more spells of homelessness, exacerbating two problems: (i) they are remaining in shelter and transitional housing, finding it increasingly difficult to exit; and (ii) they are returning to homelessness with increasing frequency for lack of permanently affordable housing options in the greater Bay Area housing market. It draws the conclusion that the greatest need to end homelessness in Berkeley is permanently subsidized, affordable housing.
- **Part II** uses the analytical findings from Part I to present a model for reaching "functional zero" in Berkeley by 2028. We argue that to permanently render homelessness brief, rare, and non-recurring in Berkeley, the city should invest in the following five types of interventions:
  1. Targeted homeless prevention;
  2. Light-touch interventions with no financial assistance;
  3. Rapid Re-housing;
  4. Permanent Supportive Housing; and
  5. Permanently subsidized housing without services.

Using intervention types and analytical methods that closely align with those used by EveryOne Home and the City of Oakland, we project that the total annual cost of these interventions is between \$17 and \$21 million in year one, growing annually to a total annual cost of between \$31 and \$43 million by 2028, to reach "functional zero."

Much discussion has been given to the concept and costs associated with housing 1000 people in Berkeley. Using the same analytical methods, we estimate that permanently ending homelessness for 1000 people in Berkeley (i.e., the number sleeping on our streets on any given night) will require ongoing costs of between \$16 and \$20 million annually. This does not account for future inflow of newly homeless people into Berkeley so will not permanently address homelessness in Berkeley.

All projected costs are in addition to Berkeley's current general fund contribution to homeless services.

- **Part III** presents strategic recommendations for the Council. Given the complexity and cost of homelessness in Berkeley, staff recommend that Council prioritize the following strategic goals over the following 5 years:
  1. *Transform Berkeley's shelter system into a housing-focused, low-barrier Navigation System.* Staff project that this can be accomplished with \$4.8 million in 2019, growing annually with costs of living to reach \$5 million annually by 2023. To be maximally successful, this strategy relies on increased County and State funding for permanent housing subsidies.
  2. *Reduce chronic homelessness by 50% by 2023.* Staff project a total annual cost of \$1.3 million beginning 2019, growing to \$5.1 million annually in 2023 and beyond.
  3. *Enhance the efficacy of homeless prevention resources with pilot interventions specifically targeted to need.* Staff project that this can be accomplished with \$1.45 million in 2019, growing annually with costs of living to reach \$1.52 million annually by 2023. For reasons detailed in the report, we recommend that Council adopt this goal only after making progress on goals 1 and 2. Ideally, such an effort would be funded by Alameda County, given the regional nature of housing and homelessness.
  4. *Continue implementing changes to Berkeley's Land Use, Zoning, and Development Review Requirements for new housing with an eye towards alleviating homelessness.* If present economic trends continue, the pace with which new housing is currently being built in Berkeley will likely not allow for a declining annual homeless population. Berkeley should continue to streamline development approval processes and reform local policies to help increase the overall supply of housing available.

We project that the annual costs of achieving all these goals (with the exception of goal #4, which cannot be quantified at this time) is \$7.8 million in year one, growing to \$12.7 million annually by 2023.

## Part I - Overview of Berkeley's Homeless System Performance

*Finding 1: Our homeless population is growing—and it is bigger than we thought.*



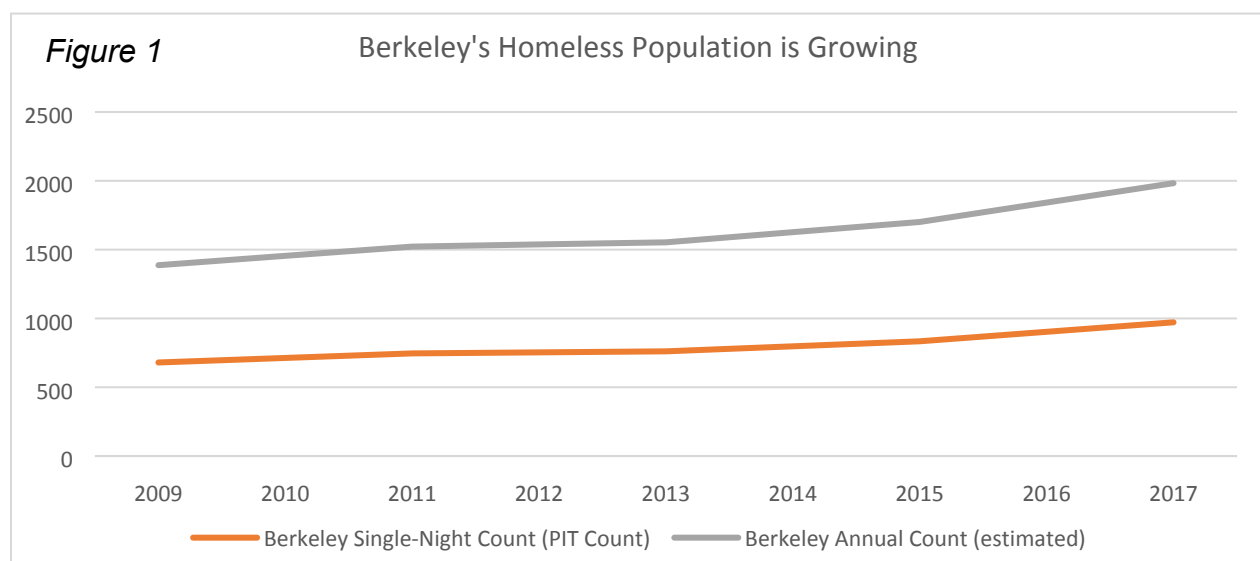
Most homeless services experts agree that the HUD Point-in-Time (PIT) count actually undercounts the number of people experiencing homelessness in a community. If Berkeley’s estimated homeless population size of 972 is based on a single night of data, that number will have missed anyone who lost their housing the next night, or who ended their homelessness the night before. If people flow in and out of homelessness every day, then utilizing a static, single-night estimate of the population size as the baseline will underestimate the true annual need from a resources perspective (and thus annual costs from a budgetary perspective). Simply put, a plan to house 1000 people will not end Berkeley’s homeless crisis, but rather end a portion of it.

With this in mind, estimating the *annualized* homeless population size in Berkeley—and quantifying how it changes over time—is the first step towards “right-sizing” the system. Projecting the correct number of housing subsidies to fund in a budget year, for example, should be based on the estimated number of people who actually need to be served over the course of that budget year.

|                                                     | 2009 | 2011 | 2013 | 2015 | 2017 |
|-----------------------------------------------------|------|------|------|------|------|
| <i>Single-Night Count (from point-in-time data)</i> | 680  | 746* | 761* | 834  | 972  |
| <i>Annual homeless pop. (estimated)</i>             | 1387 | 1522 | 1553 | 1701 | 1983 |
| <i>Percent change from previous count</i>           |      | 10%  | 2%   | 10%  | 17%  |

\* Estimated from Alameda County counts; Berkeley-specific data are not available.

**HHCS estimates that, over the course of 2017 (the last year for which data are available), as many as 1,983 people experienced homelessness in Berkeley.**<sup>1</sup> As indicated in Figure 1, this annual population has been increasing at an average rate of roughly 10% every two years, with the largest gains occurring between 2015 and 2017:



<sup>1</sup> This number was obtained by estimating a “multiplier” to translate the single-night estimate into an annual estimate. Our estimated multiplier of 2.04 is within the range expected by homeless system experts. The specific methodology used for estimating the multiplier is available upon request.

HHCS has previously reported on staggering racial disparities in the homeless services system.<sup>2</sup> Whereas people identifying as Black or African-American constitute less than 10% of Berkeley's general population, for example, they represent 50% of the single-night homeless population. These analyses reveal that the disparity among service users is even worse: since 2006, 65% of homeless service users in Berkeley identify as Black or African American. This large difference in Black individuals between the point-in-time count and service utilization count suggests that Black Berkeleyans are more likely to seek help from the system if they lose their housing, though this cannot be confirmed from the data available.

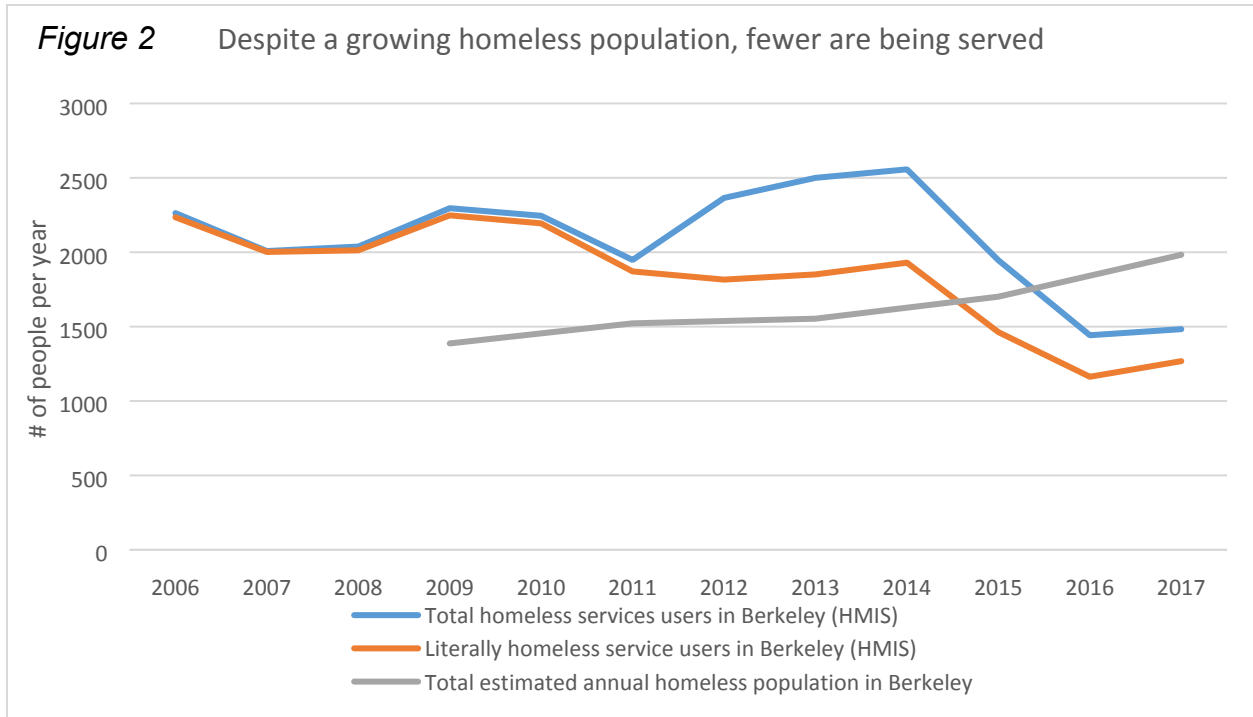
*Finding 2: Despite a growing population, our system is serving a progressively smaller percentage of the literally homeless population.*

Despite a growing homeless population size, the number of people actually using homeless system services each year in Berkeley (such as shelters, drop-in centers, or rapid rehousing subsidies) has not kept pace with this growth since 2015. Our analysis of HMIS data finds that, between 2011 and 2014, the homeless services system served a large population that was not “literally homeless” upon entry—in other words, people who reported staying with friends or family the night before, or coming from their own housing. Filtering for only those users who came from literal homelessness when entering the system, we find evidence that, **since 2014, the homeless services system is serving a smaller portion of the overall homeless population (see Figure 2).**<sup>3</sup>

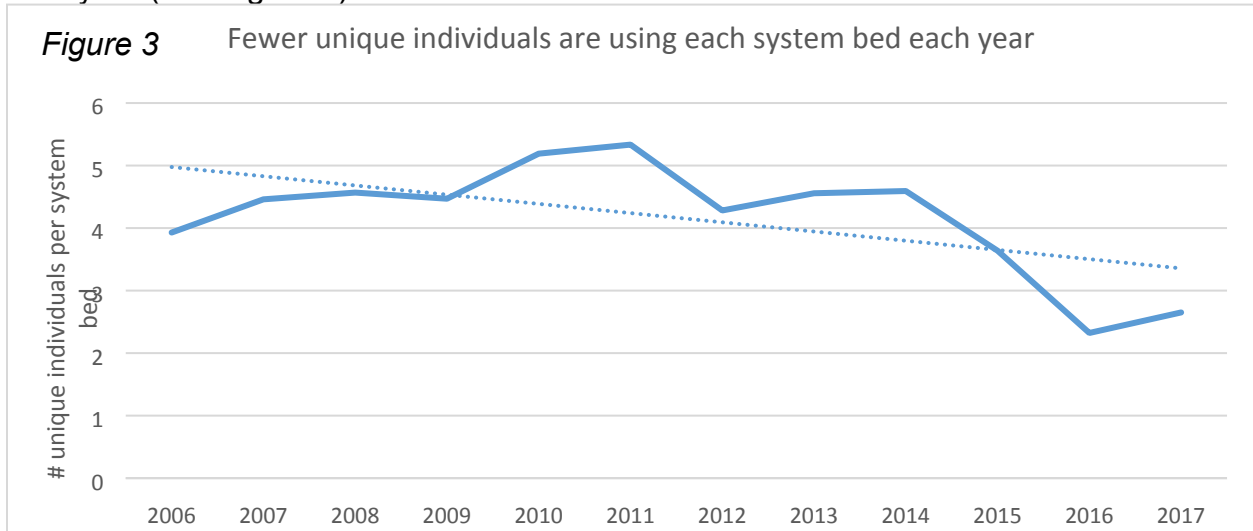
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<sup>2</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/07\\_Jul/Documents/2017-07-25\\_Item\\_53\\_2017\\_Berkeley\\_Homeless.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/07_Jul/Documents/2017-07-25_Item_53_2017_Berkeley_Homeless.aspx)

<sup>3</sup> In 2014, Berkeley's drop-in centers largely stopped entering new data in HMIS. When isolating the effects of drop-in data, we find that since that time 45% of the discrepancy between literally and non literally homeless users is attributable to drop-in center clients—in other words, 45% of non literally homeless people who used homeless services did so at Berkeley's drop-in centers. Importantly, removing drop-in data altogether has no impact on the trend of overall declining system usership.



**This drop in overall service users does not appear to be a function of a decline in the system’s bed inventory over time.** Between 2006 and 2017, the number of beds in Berkeley’s system (shelter, transitional housing, and rapid rehousing slots) changed, on average, less than 1% year over year. When controlling for the number of beds in the system, we actually find that fewer unique individuals are using any given bed year over year (see Figure 3).



|                                 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |
|---------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|
| <i>Total Beds - RRH, ES, TH</i> | 294  | 296  | 296  | 296  | 284  | 254  | 284  | 255  | 265  | 276  | 273  | 269  |

Of note, both of the graphs above indicate that, beginning in 2016, trends began to reverse. In 2016, Berkeley began implementing its Coordinated Entry System (CES). These trends indicate that CES has had the discernable effect of serving a rising number of literally homeless people (rather than serving people who could resolve their homelessness with other options, like returning back to family), as was the system's intention.

*Finding 3: The same people appear to be cycling in and out of the homeless system in Berkeley*

What explains this drop in service utilization over time? There are two reasons why fewer unique individuals might be using any given bed each year:

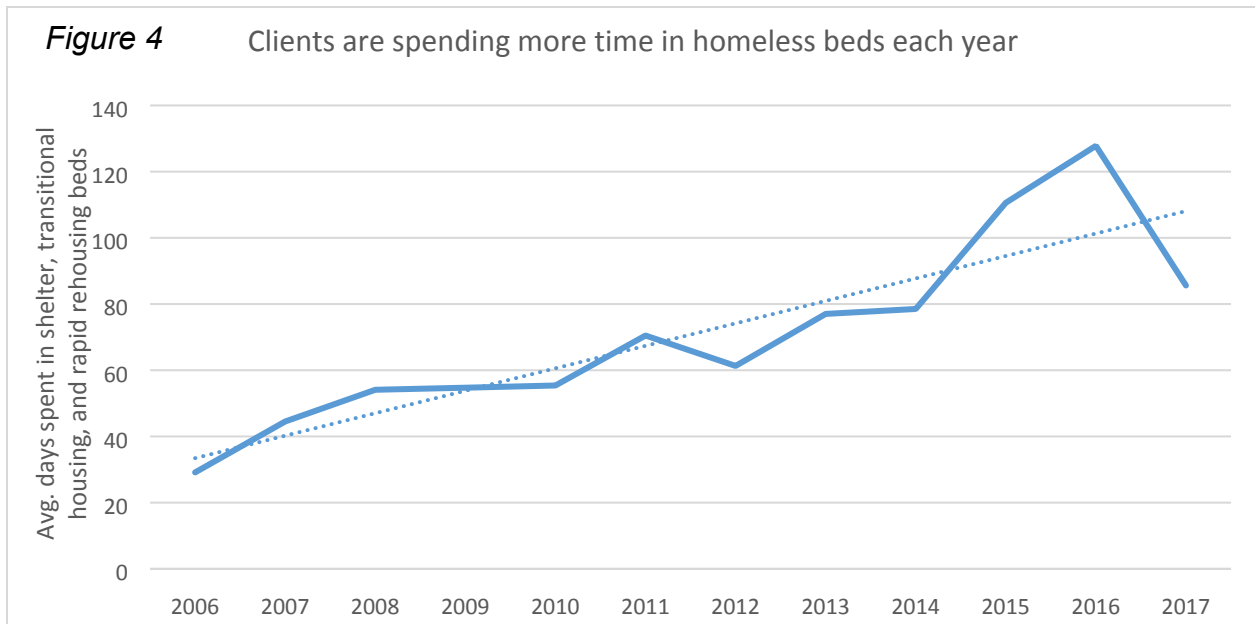
- Hypothesis 1: Different users might be getting increasingly “stuck” in the system over time--finding it more and more difficult, for example, to exit a shelter bed for housing.
- Hypothesis 2: Alternatively, the same, repeat individuals might be cycling through the system more and more over time, thus reducing access to the system for other, “new” users.

This is a critical distinction with divergent policy solutions: the first hypothesis implies that the system lacks resources to quickly “exit” people from homelessness (for example, rapid rehousing subsidies to create “flow” through system beds). The second hypothesis instead implies that the system lacks *permanency* of exits for clients—even if someone previously exited the system to housing, they may be returning to homelessness with greater frequency over time for lack of permanent affordability in the housing market.

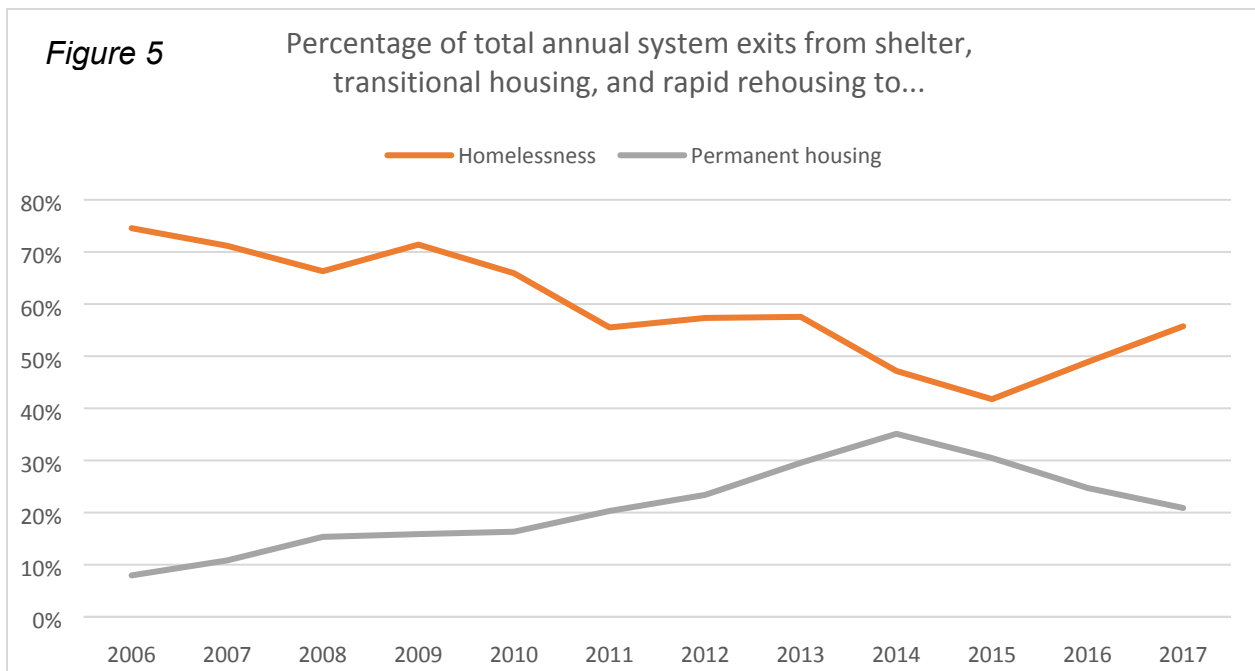
**Our analysis of the data provides some support for both hypotheses.** First, as indicated in Figure 4, the average number of days individuals are spending in homeless services beds has been increasing an average of 13% year over year, from just under 1 month in 2006 to just under 3 months in 2017. Berkeley's shelters only removed length-of-stay limits in 2016 (well after this trend emerged), meaning that the increase cannot be attributed to this policy shift alone (see footnote<sup>4</sup> for more on the dip in 2017):

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<sup>4</sup> Note that, beginning with the initiation of Coordinated Entry in 2016, the upward trend of time spent in homeless beds sharply reversed. There are two potential explanations for this trend reversal: either (i) the average shelter stay length decreased as high-needs individuals, for whom CES began reserving beds, chose not to remain in shelter for long; and/or (ii) CES began prioritizing the longest-term homeless people for housing first, thus helping move some very long-term stayers out of system beds and into housing. Unfortunately, the data available cannot reliably determine which explanation is driving the trend.



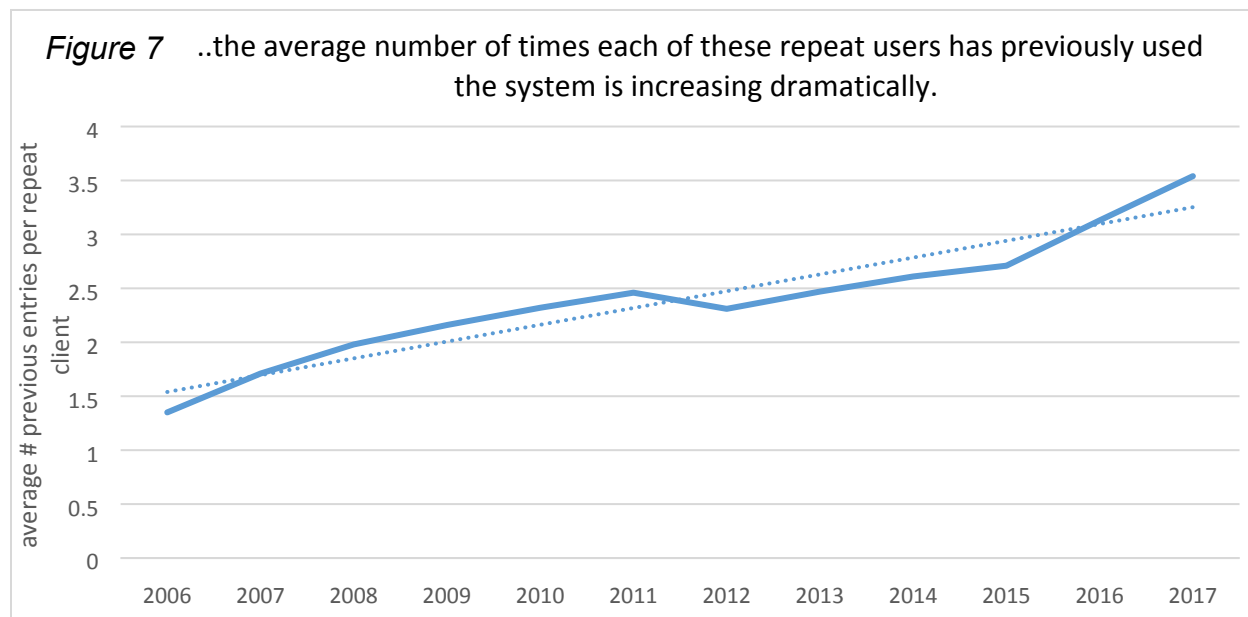
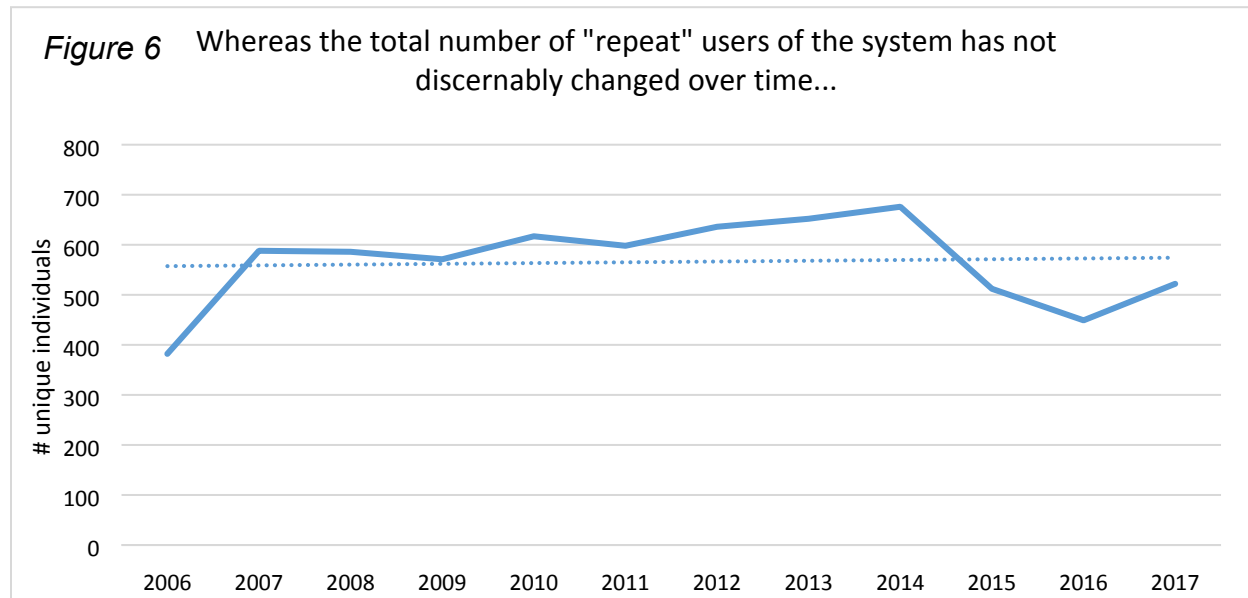
Moreover, in recent years, Berkeley has seen a reversal of an otherwise positive trend: since 2014, clients are increasingly likely to exit the system to homelessness, and less likely to exit to permanent housing destinations (see Figure 5)<sup>5</sup>:



Second, analyses demonstrate that the system is increasingly open to only a small pool of repeat consumers. As shown in Figure 6, the number of repeat consumers has remained relatively stable over time (with Coordinated Entry reversing a downward

<sup>5</sup> Figure 5 includes exits from all system “beds” (including shelter, transitional housing, and rapid rehousing).

trend in 2016, indicating success in targeting long-term homeless people for services), but Figure 7 reveals that this pool of individuals is accounting for an increasingly large share of overall service use:



Overall, the average number of previous entries is increasing an average of 9% year over year, and has increased 160% since 2006—from 1.4 previous entries in 2006 to 3.5 in 2017. (These analyses account for shelter, transitional housing, and rapid rehousing beds only).

To summarize, these trends indicate that homeless people in Berkeley are generally finding that it is harder, and takes longer, to exit homelessness to permanent housing each year—and once they do exit, they seem increasingly likely to return back to the

system over time. A regression analysis on the likelihood of exiting homelessness without eventually returning found that, relative to 2006, Berkeleyans were 16%, 19%, and 22% less likely to exit to housing without returning in 2015, 2016, and 2017, respectively—regardless of any personal characteristics, or the type of service they accessed.

None of this is especially surprising when viewed in light of the East Bay's dramatic uptick in rental prices and housing instability, at all income levels, over the past several years. Between January 2015 and December 2017, for example, average asking rents in Berkeley jumped 54% (from \$1,371 to \$2,113). Meanwhile, homeless Berkeleyans' incomes are increasingly unable to keep pace: in 2017, homeless people exited the system with an average of only \$628 in monthly income, with only 7% able to increase their income by any amount during their stay in the system (from an average of \$481 to an average of \$1,190), irrespective of the type of service accessed. Meanwhile, the average asking rent for a one bedroom apartment in Berkeley in 2017 was \$2,581;<sup>6</sup> in Oakland over the same period, rent averaged \$2,285.<sup>7</sup>

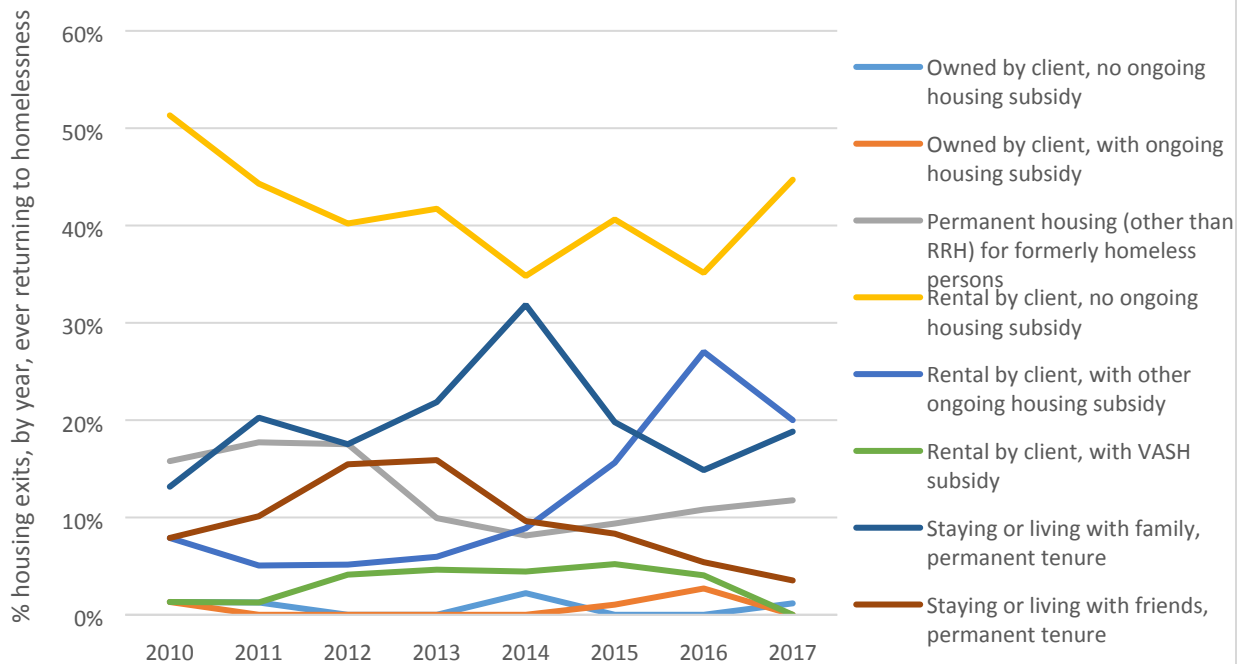
This housing instability, and general inability for previously homeless people to afford rent on their own, is clearly reflected in the system data (Figure 8): among those who previously exited the system to permanent housing in the past but eventually returned, the largest percentage of those exits had been to unsubsidized rental units. **Without an intervention that focuses on creating permanent affordability in the housing market, all available evidence suggests that anything Berkeley does to address homelessness will not reduce it so long as present trends continue.**

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<sup>6</sup> See: <https://www.rentjungle.com/average-rent-in-berkeley-rent-trends/>

<sup>7</sup> See: <https://www.rentjungle.com/average-rent-in-alameda-rent-trends/>

**Figure 8** Those who exit homelessness to an unsubsidized rental unit are the most likely to eventually return to homelessness



\* HUD has changed HMIS data categories over the years, making data prior to 2010 incomparable.

**Finding 4: Berkeley’s homeless population is getting increasingly harder to serve**

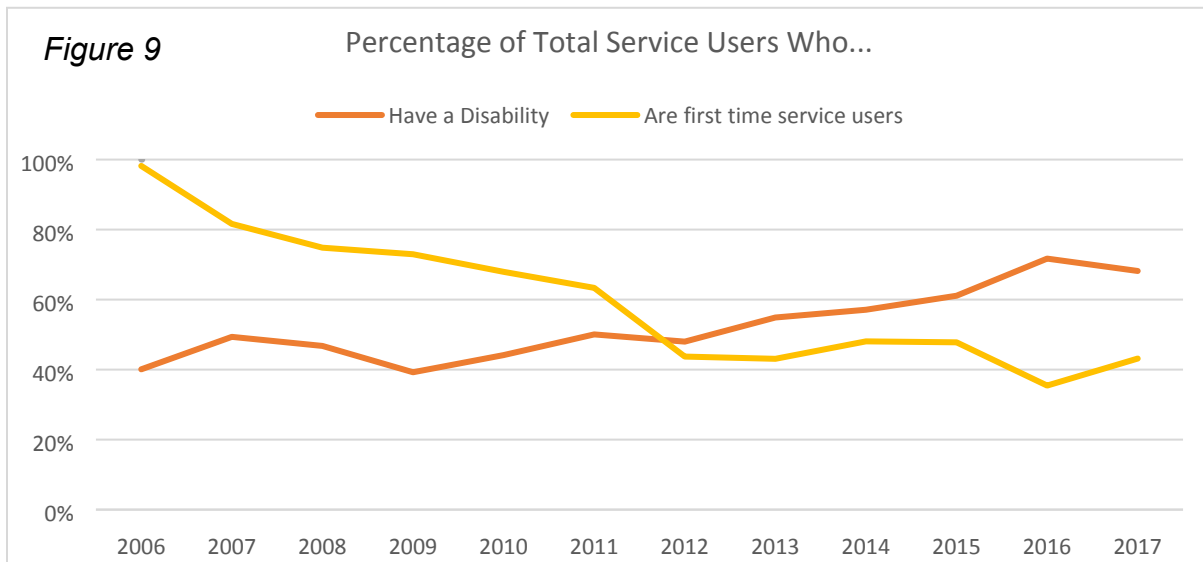
All of this begs the question: why are people getting stuck and cycling in and out of homelessness in Berkeley? For one, the data clearly suggest that, in part, the population is increasingly comprised of people who are very difficult to serve.

To isolate the effects of personal characteristics on likelihood of successfully exiting the system and not returning to homelessness, we partnered with an intern from the Goldman School of Public Policy to perform comprehensive system regression analyses. The table below summarizes a few predictive variables of interest in an analysis that controls for year and type of service accessed:

| Characteristic                         | Effect on likelihood of successfully exiting from homelessness |
|----------------------------------------|----------------------------------------------------------------|
| Amt. total monthly income (per dollar) | No effect                                                      |
| Engagement in criminal activity        | -5%                                                            |
| Having a disability (of any kind)      | -733%                                                          |



Overall, these analyses reveal that having any disability (physical, developmental, substance-related, etc.) is by far the single largest reason a person is unlikely to exit homelessness to housing and subsequently not return.<sup>8</sup> Perhaps unsurprisingly, Berkeley’s homeless population is not only increasingly serving “repeat” consumers,<sup>9</sup> but a greater proportion of people with a disability over time (see Figure 9):



Note that, in 2016, the percentage of first-time service users saw its single largest increase in the history of the database. By design, Coordinated Entry prioritizes homeless resources for the most vulnerable (those least likely to be able to access the system on their own). We believe that the success of this policy shift is reflected in these trends.

*Finding 5: Coordinated Entry is unlikely to end homelessness in Berkeley without additional permanent subsidies.*

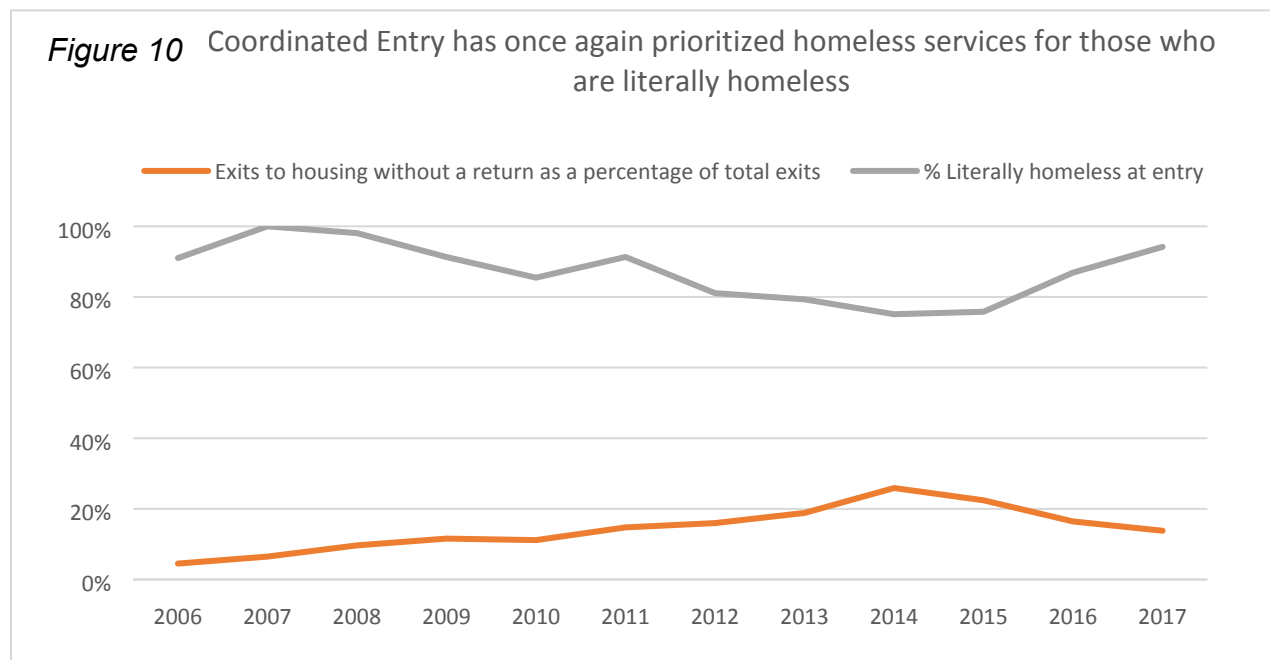
The previous analyses have found that, over the past 11 years, (i) fewer first-time homeless individuals are being served, (ii) more people with disabilities are entering, and (iii) fewer people are exiting to permanent housing—and fewer are likely to keep their housing once they leave. While much of this is undeniably the effect of a housing market that has become more supply-constrained, competitive, and expensive, some of it is also by design: beginning in 2016, our system began intentionally serving long-term and disabled homeless individuals first.

<sup>8</sup> Surprisingly, race/ethnicity had no major effects on someone’s likelihood to exit homelessness without eventually returning, despite the documented disproportionality among people of color experiencing homelessness. We posit two potential explanations: (i) either the system is not regularly discriminating by race when sustainably exiting people to housing; and/or (ii) people of color previously served by the system but returning to homelessness are less likely to access services altogether, or more likely to simply relocate to other communities. The available data cannot be used to distinguish between these two potential explanations.

<sup>9</sup> Note that 100% of clients were “first-time users” in 2006. This is because the database was initiated in 2006, meaning every instance of service use was necessarily someone’s first.

Per Federal mandate,<sup>10</sup> all entities receiving HUD funding for homeless services are required to create a Coordinated Entry System (CES) that prioritizes limited housing resources for those who are most vulnerable (and therefore least likely to resolve their homelessness on their own). On January 4, 2016, Berkeley became the first jurisdiction in Alameda County to establish such a system. This fortunate timing affords these analyses two full years of data to explore the effects of CES on homelessness.

First, Figure 10 demonstrates that Coordinated Entry has restored homeless services for people who are actually literally homeless. Beginning in 2011, Berkeley’s homeless services system began serving a significant number of people who were not actually literally homeless—i.e., they spent the previous night in their own rental unit or with friends and family. Unsurprisingly, these individuals likely drove a temporary spike in the percent of overall system exits to housing without an eventual return. Beginning in 2016, with the start of Coordinated Entry, the City’s homeless services were restricted to literally homeless people. This change in priority to help literally homeless people who had been on the streets the longest and were disabled has had the trade-off of compromising system housing performance in a remarkably consistent fashion:

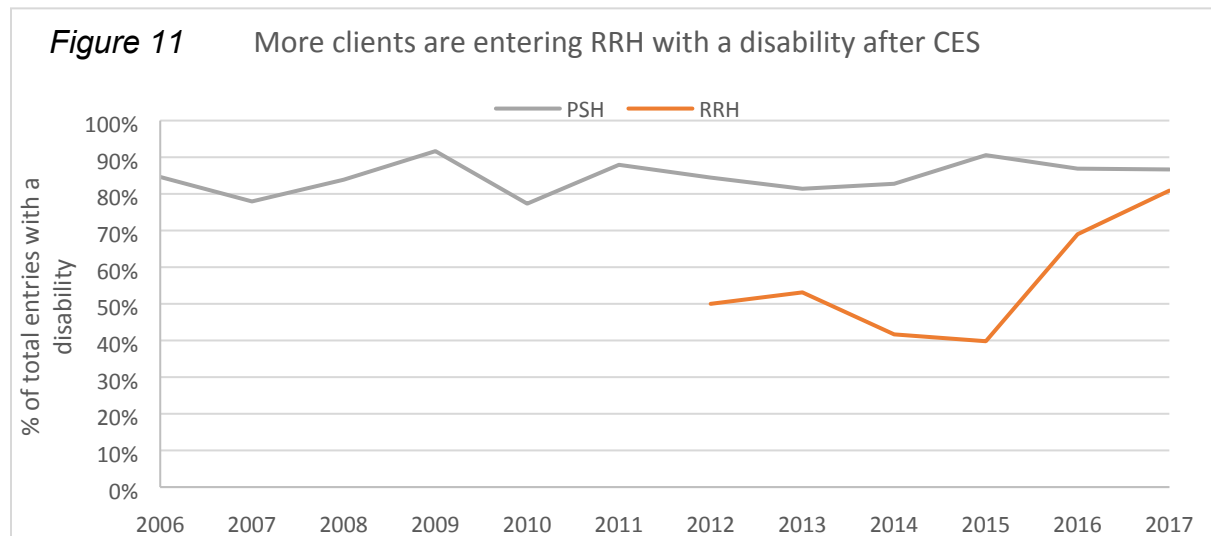


Additional analyses suggest not that Coordinated Entry is ineffective at housing high-needs homeless people in Berkeley, but rather that Berkeley has not had access to sufficient tools needed to implement this policy shift. Berkeley has roughly 260 permanent supportive housing (PSH) vouchers for homeless people. In any given year, only about 10% of these vouchers turn over for new placements, meaning that only 25-30 homeless individuals can be permanently housed, with ongoing deep rental subsidy,

<sup>10</sup> See: <https://www.hudexchange.info/resources/documents/Notice-CPD-17-01-Establishing-Additional-Requirements-or-a-Continuum-of-Care-Centralized-or-Coordinated-Assessment-System.pdf>

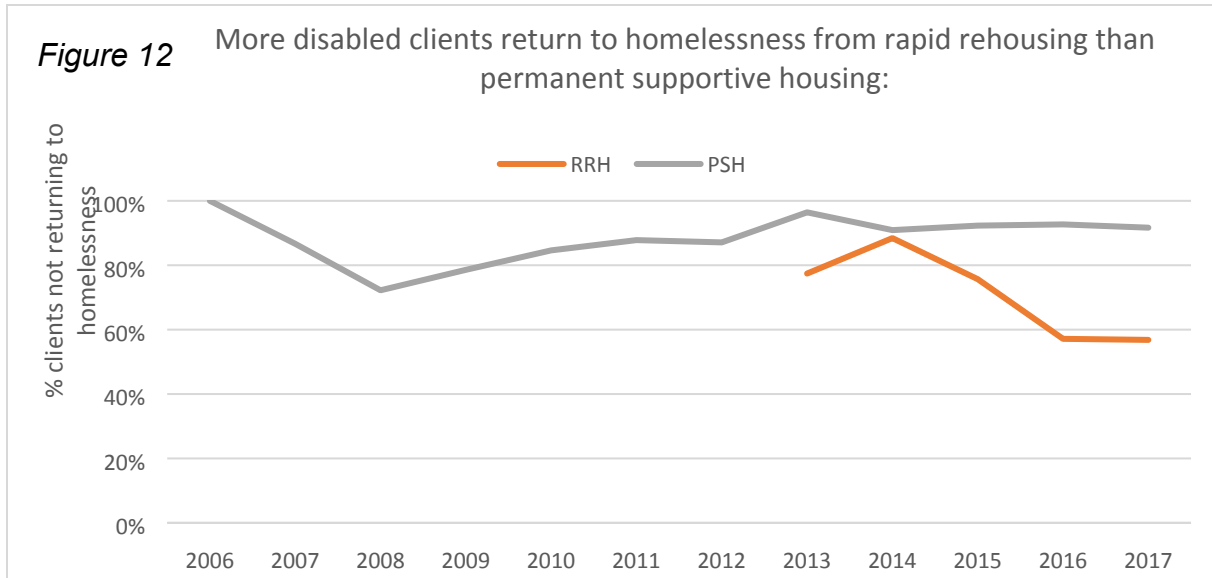
in any given year. Meanwhile, 27% of Berkeley’s homeless population is chronically homeless—261 individuals *on any given night*.

To alleviate this supply/demand mismatch, the City implemented a policy of prioritizing high-needs people not just for PSH, but also for rapid rehousing (RRH),<sup>11</sup> beginning in 2016. As a result, the percentage of RRH clients entering with disability had approached that of PSH by 2017 (see Figure 11):

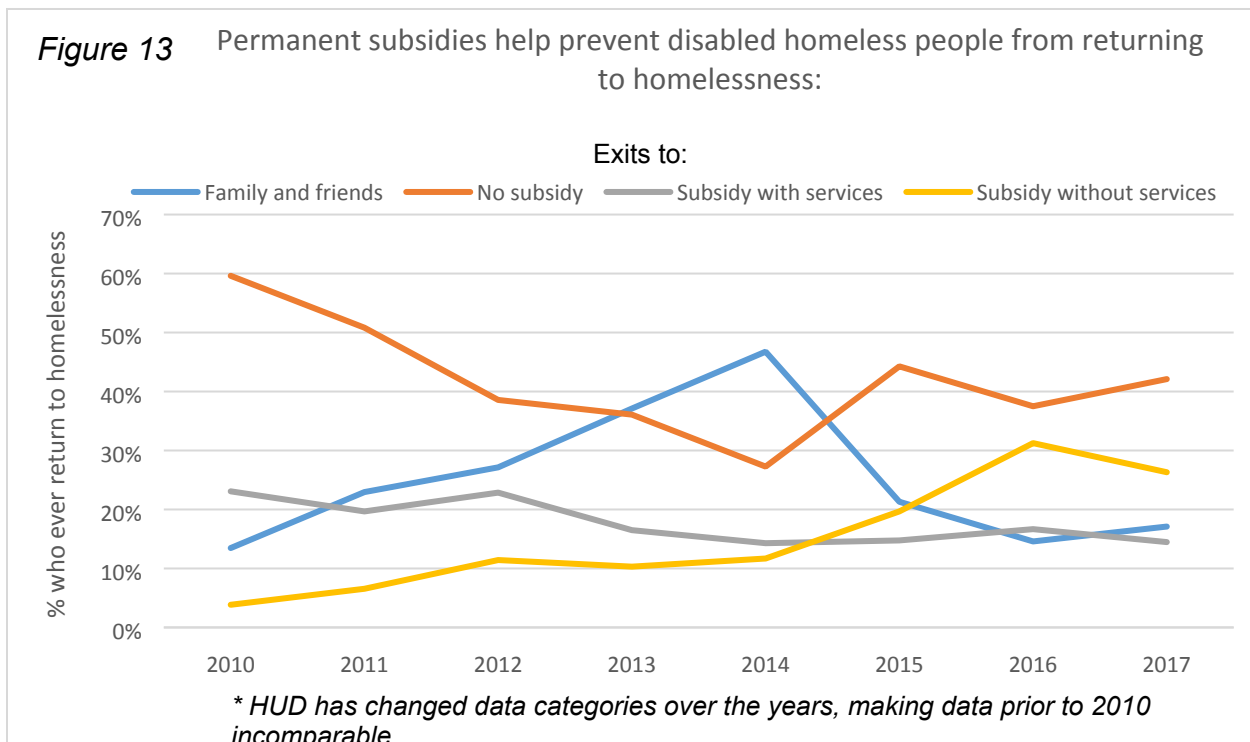


Given what we now know about the statistical effect of disability on housing success, this has had the predictable effect of reducing the percentage of clients who are able to ultimately keep their housing after the subsidy and intervention ends, from a pre-CES average of 81% to a post-CES average of 57%. Compare this to PSH homeless return rates, which were less than 9% in 2017:

<sup>11</sup> For more information on rapid rehousing as an intervention for homelessness, see: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-24\\_Item\\_39\\_Rapid\\_Rehousing\\_What\\_it\\_Can.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-24_Item_39_Rapid_Rehousing_What_it_Can.aspx)



In fact, among those who self-report a disability at exit, those exiting to housing with subsidies are consistently less likely to eventually return to homelessness than those who do not:



**Conclusion:** Berkeley’s homeless services system is not under-performing—rather, it lacks the tools appropriate for the population it serves.

These analyses demonstrate, with a level of rigor not previously undertaken within our system, that the performance of homeless services in Berkeley is declining over time

because it is suffering from a fundamental mismatch between client characteristics and appropriate resources. The homeless population has gotten larger over time, but fewer and fewer people are accessing the system as “repeat” clients cycle in and out of homelessness. In response, Berkeley has prioritized resources for those most in need through Coordinated Entry, and has seen tremendous success in restoring homeless services for those who are literally homeless and unable to access the system on their own. However, **is the system has not created sufficient permanently subsidized housing resources to appropriately service a Coordinated Entry System**, and has instead relied on rapid rehousing to exit them from the system. Overreliance on rapid rehousing with high needs individuals in a tight housing market is a strategy that is tenuous in the long-run, as HHCS previously explained in an April 2018 Information Report.<sup>12</sup>

## Part II – Overview of Interventions and Costs Needed to Achieve “Functional Zero”

To reach “functional zero” in Berkeley (that is, a dynamic system where the number of people entering homelessness equals the number exiting homelessness each year), the City must right-size its system such that the appropriate number of resources are available, per year, to the right people who need them.

HHCS staff performed an analysis of system flow and trends, and projects that, if present trends continue (i.e., no additional resources but continuing rates of exits, returns, and system inflow), Berkeley will need resources for an additional 1,748 people beginning in 2019, and an additional 2,664 people by 2028. This need is above and beyond the total number the city’s current budget is projected to house each year:

| Annual...                                 | 2019        | 2020        | 2021        | 2022        | 2023        | 2024        | 2025        | 2026        | 2027        | 2028        |
|-------------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Size of Homeless Population               | 2146        | 2233        | 2323        | 2416        | 2513        | 2615        | 2720        | 2830        | 2944        | 3062        |
| <i>Of this population, estimated...</i>   |             |             |             |             |             |             |             |             |             |             |
| Newly homeless population                 | 944         | 982         | 1022        | 1063        | 1106        | 1150        | 1197        | 1245        | 1295        | 1347        |
| Returners & long-term homeless population | 1202        | 1250        | 1301        | 1353        | 1408        | 1464        | 1523        | 1585        | 1649        | 1715        |
| Exits to permanent housing                | 398         | 398         | 398         | 398         | 398         | 398         | 398         | 398         | 398         | 398         |
| <b>Number remaining homeless</b>          | <b>1748</b> | <b>1835</b> | <b>1925</b> | <b>2018</b> | <b>2115</b> | <b>2217</b> | <b>2322</b> | <b>2432</b> | <b>2546</b> | <b>2664</b> |
| <i>Of this population, estimated...</i>   |             |             |             |             |             |             |             |             |             |             |
| # not currently using services            | 410         | 430         | 452         | 474         | 496         | 520         | 545         | 571         | 597         | 625         |
| # using services                          | 1338        | 1404        | 1473        | 1545        | 1619        | 1697        | 1777        | 1861        | 1948        | 2039        |

The table above quantifies this estimate. A significant portion of the population consists of people who are new to the system (the “newly homeless population”). In other words, with present resources, we project that as many as 944 individuals will fall into homelessness for the first time in Berkeley in 2019—or roughly 17 people per week. The remainder will consist of previously homeless individuals returning to homelessness

<sup>12</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-24\\_Item\\_39\\_Rapid\\_Rehousing\\_What\\_it\\_Can.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-24_Item_39_Rapid_Rehousing_What_it_Can.aspx)

and long-term homeless individuals not yet served. Not all of these individuals will have been last housed in Berkeley, but estimating the actual number last housed in Berkeley cannot reliably be accomplished with existing data sources.

If present funding trends continue (i.e., funding for the current system remains constant), we expect 398 permanent housing placements annually. Subtracting these placements from the annual homeless population yields an estimate of those remaining homeless, which contributes to the ensuing year's population growth. By calculating the difference between the annual estimated homeless population and the subset of those individuals who actually surface in our homeless system database, we estimate that just under 25% of the population annually will not utilize any homeless service and will require additional outreach resources to engage.

Not all of these individuals will need or benefit from the same type of intervention. While some will be unable to exit homelessness for good without the assistance of permanent supportive housing, others will benefit from time-limited, lighter-touch interventions like housing problem-solving conversations with appropriate referrals. To reach functional zero, staff estimate that, Berkeley will need to invest in the following five types of interventions:

1. Targeted homeless prevention;
2. Light-touch interventions with no financial assistance;
3. Rapid Re-housing;
4. Permanent Supportive Housing; and
5. Permanently subsidized housing without services

Below we describe each intervention, and their associated costs, in turn.

### *Targeted Homeless Prevention*

One of the greatest uncertainties in a “functional zero” analysis is estimating the number of people who could have been prevented from entering homelessness in the first place.

- First, it is difficult to estimate the number that become “newly homeless” year over year. There is no database that registers an entry every time someone loses housing and enters homelessness. Moreover, HMIS data (the database used for this report) only tracks people who access services; with a limited number of shelter beds, we know that a growing percentage of people do not access services, anecdotally evidenced in part by the significant growth in homeless encampments.
- Second, not everybody experiencing homelessness in Berkeley was housed in Berkeley at the time they became homeless. For this population, Berkeley homeless prevention efforts would likely be impossible. Since homelessness is clearly such a regional issue, Alameda County must be the lead for an expanded prevention effort to be maximally successful.

- Third, the ability to accurately target homeless prevention resources to people who are actually going to become homeless remains quite low.<sup>13</sup> Not every person who is at risk of becoming homeless actually goes on to experience homelessness. There are far more unstably housed people and people experiencing poverty than people experiencing homelessness in this country, making upstream prevention efforts difficult and often inefficient.

For these reasons, we found that approximately 221 (roughly 25%) of the estimated 873 people who became newly homeless in Berkeley in 2018 would have been amenable to homeless prevention interventions,<sup>14</sup> at a cost of roughly \$1.3 million annually.<sup>15</sup> These interventions would be targeted as much as possible using homeless risk screening tools and prioritized for people least likely to resolve their housing crisis on their own, and are therefore qualitatively different from broader eviction prevention efforts currently funded by the City of Berkeley.

We also predict that a small number of individuals who lose their permanent supportive housing and return to homelessness for preventable reasons, such as nonpayment of rent (no more than 10 on average each year) could be prevented with a modest additional investment (roughly \$130,000 in year one).

Figure 14 summarizes the annual investment needs for this intervention. The spike in 2021 results from preventing additional future returns to homelessness from new permanent interventions discussed below.

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<sup>13</sup> See: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.926.5184&rep=rep1&type=pdf>

<sup>14</sup> We calculate this number from by multiplying (i) the percentage of people who, in 2016 and 2017, entered homelessness from living situations amenable to homelessness prevention, such as their own rental housing or from friends/family (25%); (ii) the percentage of Berkeleyans in the 2017 Point-In-Time Survey that reported being housed in Alameda County at the time they lost housing (76%), using this as a proxy for being housed in Berkeley for lack of more specific data; and (iii) the percentage of people who would likely actually have their housing successfully sustained by prevention efforts (75%), using data from Berkeley's Housing Retention Program. This methodology was also used by EveryOne Home and the City of Oakland.

<sup>15</sup> This assumes an average grant size of \$5000 per recipient and 20% for administrative and nonprofit overhead expenses.



*Light-touch Interventions with No Financial Assistance*

Not everybody who becomes homeless requires a great deal of assistance to resolve their homelessness. Poor and unstably housed people are remarkably resilient and often able to resolve their homelessness on their own with no financial assistance. For example, 38% of system users in Berkeley between 2006 and 2017 touched the system only one time and never returned back to the system again. Of these, roughly 10% exited to unassisted permanent destinations, such as permanent accommodations with family or their own, unsubsidized housing.

From these numbers, we estimate that up to 10% of non-chronically homeless individuals in Berkeley would benefit from light-touch interventions with no financial assistance, such as a focused housing problem-solving conversation with trained staff.<sup>16</sup> We believe this type of intervention could be built into the administrative expenses quantified in the rapid rehousing interventions described below.

*Rapid Rehousing*

The 2017 point-in-time homeless count revealed that 94% of Berkeley’s homeless population consists of single, unaccompanied adults. As we have previously reported to the Council,<sup>17</sup> very little research exists on the long-term efficacy of rapid rehousing in ending homelessness among single adults, and while this intervention can be successful for this population, it must be carefully applied to people who are most likely to succeed with the short-term assistance it offers.

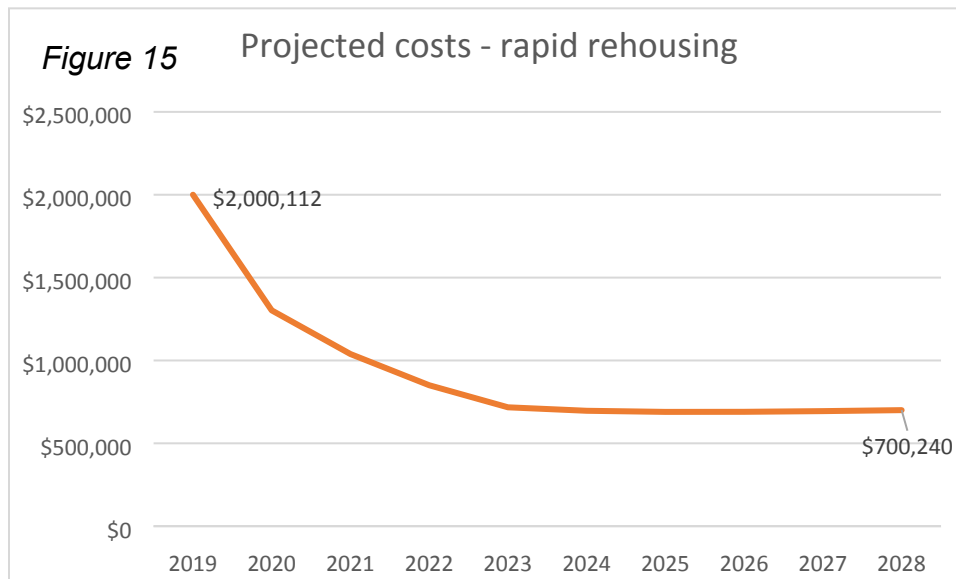
<sup>16</sup> This proportion was used by the City of Oakland and EveryOne Home as well.

<sup>17</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/04\\_Apr/Documents/2018-04-24\\_Item\\_39\\_Rapid\\_Rehousing\\_What\\_it\\_Can.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/04_Apr/Documents/2018-04-24_Item_39_Rapid_Rehousing_What_it_Can.aspx)



From national literature, a highly important predictor of success is the ability to increase income over the course of the intervention.<sup>18</sup> Locally, the analyses in this report reveal that the single largest predictor of returning to homelessness over the long-run is having a disability of any kind. Therefore, to estimate the proportion of individuals in Berkeley who are likely to benefit from rapid rehousing and not eventually return to homelessness, we examined the proportion of non-disabled individuals who had some capacity to increase their income (either they already worked or did not report a fixed disability income as their only source). From these numbers, we estimate that roughly 10% of the population is likely to permanently exit homelessness with a rapid rehousing intervention, with roughly half of that requiring only one-time assistance (e.g., assistance with security deposits) and the other half requiring up to several months of rental subsidy and case management. This translates into 211 rapid rehousing “slots” at an annual cost of \$2 million in year one, and shrinking to \$700,000 by 2028<sup>19</sup> as the overall homeless population shrinks.

In comparison to the Hub and the STAIR Center’s budgets for rapid rehousing and administration, these estimates reveal that Berkeley actually needs little additional rapid rehousing investment, as this has been the greatest focus of subsidy expansion in recent years. Figure 15 summarizes the annual costs for this intervention through 2028.



<sup>18</sup> Focus Strategies (2017). Valley of the Sun United Way Final Evaluation of the Rapid Rehousing 250 Program. [http://kjzz.org/sites/default/files/RRH%20250%20Final%20Phase%20One%20Report%2006262017%20\(1\).pdf](http://kjzz.org/sites/default/files/RRH%20250%20Final%20Phase%20One%20Report%2006262017%20(1).pdf)

<sup>19</sup> For one-time assistance costs, we relied on HMIS exit data finding that among those exiting to unassisted permanent destinations in 2016 and 2017, 55% exited to their own rental housing and 45% exit to family and friends; we assume \$3500 in average assistance for the former, plus an average travel or relocation voucher of \$250 for the latter. For those exiting with several months of assistance, we employ Hub data to estimate average rents and durations. Both estimates include associated staff and administrative expenses of 20%.

### *Permanent Supportive Housing and Permanently Subsidized Housing Without Services*

Part I of this report concludes that the single largest “missing piece” in Berkeley’s efforts to end homelessness is permanently subsidized, affordable housing. As rents rise while wages and fixed-income benefits stagnate, those who exit to unassisted permanent housing (for example, after a rapid rehousing intervention has ended) face ongoing risks of returning to homelessness in the face of ongoing housing market volatility. To reach functional zero in Berkeley, the single largest investment required will be in permanent rental subsidies for the majority of homeless people who are simply too poor—and do not have the capacity to increase their incomes—to make it on their own in Northern California’s tight, expensive housing market.

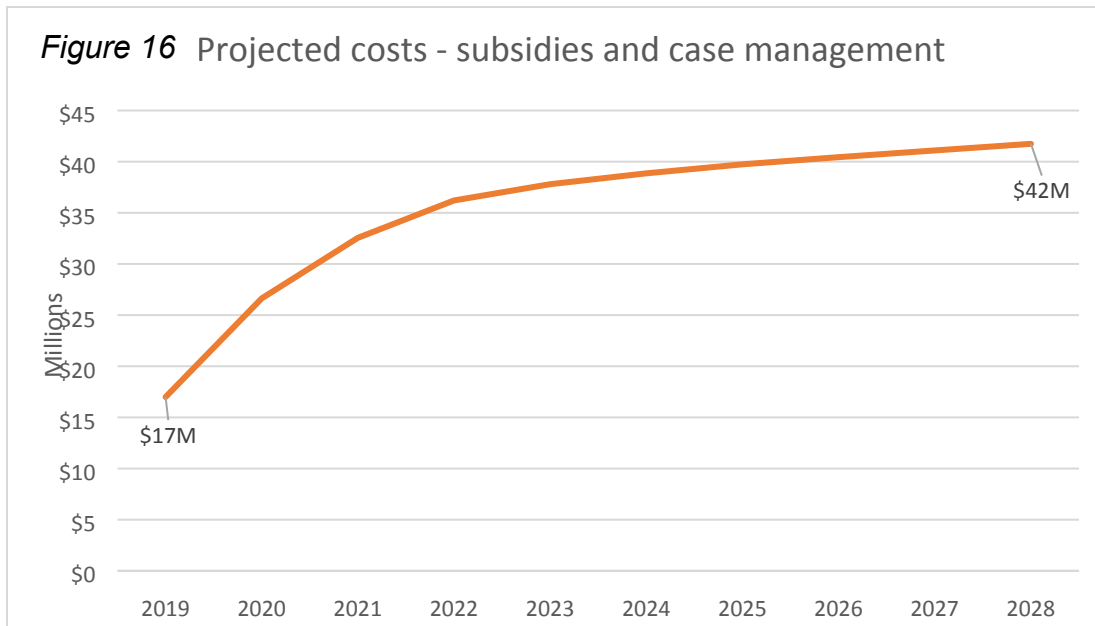
We distinguish between two types of permanent subsidies—those with supportive services, and those without. The former is traditionally reserved for the chronically homeless, but we believe that only 50% of chronically homeless people in Berkeley require ongoing case management. The rest—as well as the rest of the homeless population unable to benefit from prevention, light-tough, or rapid rehousing assistance—will simply need permanent rental subsidies. This translates to roughly 218 permanent supportive housing exits, and 440 permanent subsidy exits, in year 1 alone.

Figure 16 summarizes the annual costs<sup>20</sup> associated with this intervention through 2028. Note two important characteristics of the cost curve over time:

- First, the curve **increases over time** because permanent subsidies require a permanent fiscal outlay—as new individuals are housed each year, the overall fiscal commitment grows.
- Second, the curve **plateaus over time**. This is because (i) a large initial investment is required up front to address the currently homeless population, and (ii) as the portfolio of subsidies increases, a growing fraction of the need each year can be addressed with turnover.

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<sup>20</sup> To calculate costs, we assume (i) apartments are rented at HUD rent-reasonableness rates for Berkeley (those data courtesy of the Berkeley Housing Authority); (ii) an average client income at SSI levels for 2018, with tenant rents at 30% of that amount; (iii) annual rent growths of 2% and annual program cost growths of 1%; and (iv) sufficient city staff and nonprofit administrative support to administer what amounts to 5 times the current Shelter Plus Care capacity in Berkeley.



### *Experimenting with Permanent Subsidy Variation*

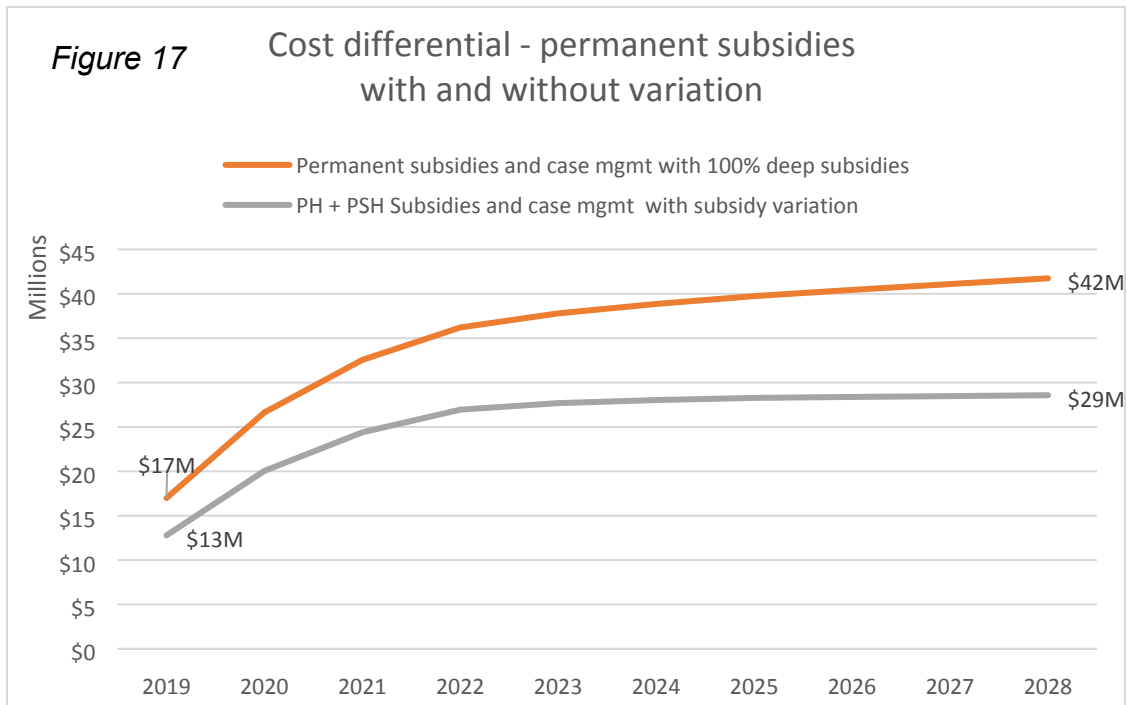
These cost estimates assume a “worst-case scenario” in which all individuals are housed at rents equaling 30% of their income, with subsidy to cover the difference. Emerging evidence suggests, however, that flat or shallow subsidies (for example, a fixed monthly subsidy of, say, \$600 per month) can prove extremely effective at helping formerly homeless people maintain their housing over time.<sup>21</sup> If Berkeley were to pilot such an approach, yearly costs could be reduced. Following EveryOne Home’s recommendation, for example, we calculated the annual costs if:

- 1/3 of the population had set-aside access to below market-rate (BMR) affordable units already subsidized for those at 50% AMI;
- 1/4 of the population were housed in market-rate apartments with subsidies covering 50% of the rent;
- 1/5 of the population received a flat subsidy of \$600 per month (akin to the Basic Income experiment starting in Stockton in 2019<sup>22</sup>); and
- 1/4 of the population received permanent subsidy in market-rate apartments at 30% of their income.

Piloting such an approach to subsidy variation is predicted to have the cost differential effects depicted in Figure 17:

<sup>21</sup> See: <https://www.urban.org/sites/default/files/publication/22311/413031-A-Proposed-Demonstration-of-a-Flat-Rental-Subsidy-for-Very-Low-Income-Households.PDF>

<sup>22</sup> See: <https://www.nytimes.com/2018/05/30/business/stockton-basic-income.html>



**Capital Expenses**

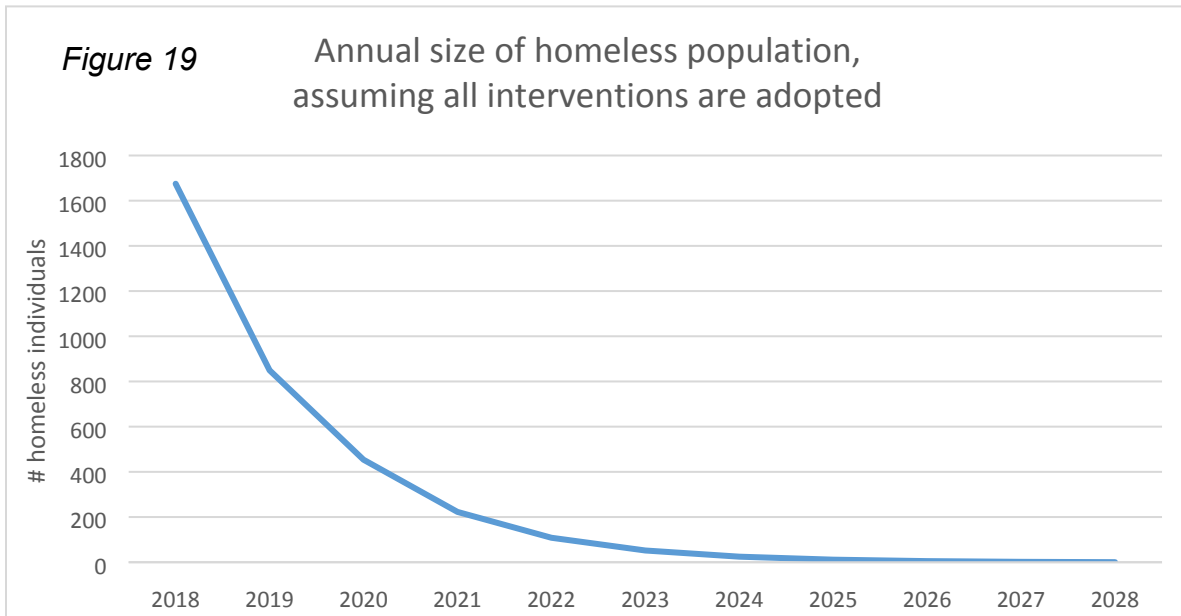
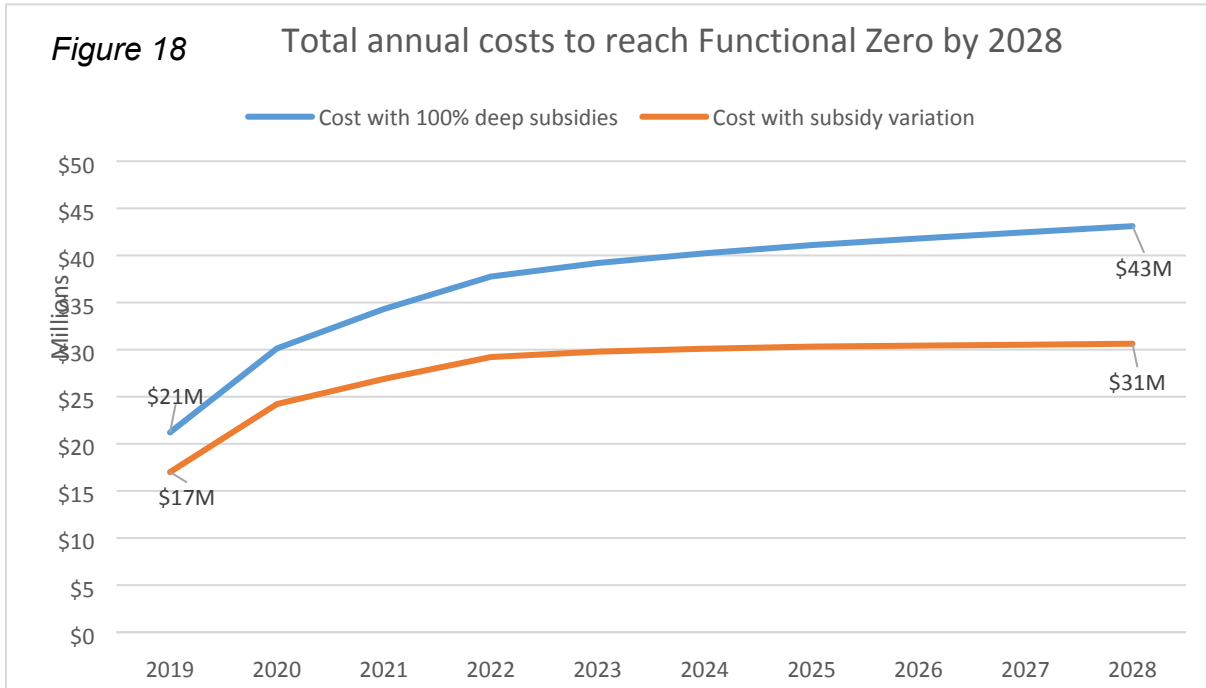
The permanent subsidy expenses calculated above simply account for operating subsidy expenses; they do not account for capital costs to build new units. With vacancy rates in the greater Bay Area at historic lows as construction of all types of housing lags behind projected need—and as other Bay Area jurisdictions compete with one another for a shrinking pool of naturally-occurring affordable housing for their respective homeless populations—there are simply not enough units in the rental market to make an approach that relies solely on scattered-site, tenant-based subsidies viable. Some new construction, of 100% affordable projects and/or market-rate projects that take advantage of inclusionary zoning policies, will have to be a part of this solution over the long-run.

At the time of writing, the outcome of Measure O, the City’s Affordable Housing Bond Measure, is unknown. If the measure passes, City officials must decide how to use the proceeds. If the City opts to utilize all of the \$135 million in bond funds to construct new affordable housing, staff estimate that this one-time infusion of funds would result in approximately 450-750 new affordable housing units (at a City subsidy rate of \$150,000-250,000 development cost per unit), with approximately 20% (or 90-150) of those units affordable to the homeless population. If other types of more costly housing are desired, the net new units would be fewer.

**Total Expenses and Effects on Homelessness in Berkeley**

The types and sizes of the interventions above are designed to help Berkeley reach “functional zero” by 2028. If each is adopted, it would come at an estimated annual expense of between \$17 and \$21 million in year one, growing annually to a total annual

budget obligation of between \$31 and \$43 million by 2028. Figure 18 depicts how annual expenses change over time, while Figure 19 depicts associated annual decreases in homelessness:



**1000 Person Plan to Address Homelessness in Berkeley**

To permanently end homelessness for 1000 people in Berkeley, we estimate that the resources outlined below will be required.

| <u>Inventory - slots needed</u>                                                                  |                     |
|--------------------------------------------------------------------------------------------------|---------------------|
| Targeted homeless prevention slots                                                               | 295                 |
| Light touch, no financial assistance slots                                                       | 211                 |
| Rapid Rehousing slots                                                                            | 211                 |
| Permanent Supportive Housing (PSH) slots                                                         | 218                 |
| Permanently subsidized housing (PH) slots                                                        | 361                 |
| Outreach (FTE)                                                                                   | 11                  |
| <u>Cost (all line items assume 20% nonprofit admin expenses and associated city staff costs)</u> |                     |
| Targeted homeless prevention slots                                                               | \$1,326,230         |
| Rapid Rehousing slots                                                                            | \$2,000,112         |
| PH + PSH subsidies and case management -- 100% deep subsidies*                                   | \$15,347,297        |
| PH + PSH subsidies and case management -- with subsidy variation*                                | \$11,891,616        |
| Outreach costs                                                                                   | \$891,000           |
| <b>TOTAL ANNUAL COST -- 100% deep subsidies</b>                                                  | <b>\$19,564,639</b> |
| <b>TOTAL ANNUAL COST -- with subsidy variation</b>                                               | <b>\$16,108,958</b> |

\* Represents an ongoing annual expense

This amounts to an up-front expense ranging from roughly \$16 - \$19.5 million up front, with an annual ongoing expense of between roughly \$12 – 15 million for permanent subsidies.

### Part III – Strategic Goals and Recommendations

In the event the City is unable to finance the functional zero or 1000 person plan costs estimated above, staff offer the goals below as more realistic alternatives for Berkeley's budget and capacity. They are strategically designed to maximize potential federal drawdowns over time, and to recognize the role that Alameda County must play as a collaborative partner in the effort.

#### **1. Transform Berkeley's shelter system into a housing-focused Navigation**

**System.** The functional zero analyses in Section I reveal that shelter users in Berkeley are (i) getting “stuck” in beds for lack of access to housing exits, and (ii) with Coordinated Entry, increasingly coming from a long-term and disabled homeless population. Berkeley's traditional year-round shelters have an average annual budget of \$640,000—little more than 25% of the STAIR Center's budget. However, any shelter can be turned into a Navigation Center with sufficient staffing and flexible funding. To help move Berkeley's shelter system from one that is focused on *respite* to one that is focused on *flow* from the streets into housing, we recommend bolstering shelter budgets so they all reflect the priorities of the STAIR Center.

*Achieving this goal will require an additional \$4.8M in total new funding for shelters, growing annually with inflation/costs of living. This funds:*

- New navigators, peer site monitors, and management at each shelter at highly competitive salaries to attract and retain top talent;
- Flexible subsidies and one meal a day for each bed;
- Overhead and training support for shelter staff.

Staff believe that this goal is appropriate and achievable for Berkeley given its position as a relatively small jurisdiction within Alameda County. Berkeley's general funds and powers of taxation are insufficient to generate the revenue needed to fund permanent subsidies at the numbers calculated in Section II of this report. Thus, Berkeley can provide the low-barrier, service rich navigation centers to help transition unhoused residents from the streets and into housing, but Alameda County administers increasing levels of State funding for homelessness (such as California Whole Person Care and various revenues stemming from California SB 850) and must take the lead in piloting permanent operating subsidies for its homeless population. Homelessness does not respect arbitrary jurisdictional boundaries within Alameda County; stronger county investment in permanent housing support is imperative for this local investment strategy to be maximally effective.

Even without sufficient permanent affordable housing to create “flow,” there are still tangible benefits to investing in lower-barrier shelter models. As staff highlighted in a recent evaluation of the STAIR Center's opening,<sup>23</sup> lower barriers generally mean that higher-needs individuals are more willing to use shelter, addressing the “meanwhile” problem of very disabled and chronically homeless people sleeping on the streets.

- 2. Reduce chronic homelessness by 50% by 2023.** In the event the County cannot provide new permanent subsidies, Berkeley has a robust federally funded Shelter Plus Care program with extensive expertise in the administration of permanent subsidies for chronically homeless individuals, and already funds a small number of permanent subsidies for chronically homeless people through the Square One program. By expanding Square One to 54 new vouchers in 2019 and 222 total vouchers by 2023, we calculate that Berkeley, on its own, can achieve the goal of reducing chronic homelessness by 50% by 2023.

Increased funding for subsidies and staff can also help leverage Federal support over time, as HUD funds are increasingly tied to measurable reductions in yearly homeless counts. Tackling chronic homelessness is an effective way to bring overall homeless counts in Berkeley down, as Berkeley's rate of chronicity (27%) far exceeds the national average (roughly 15%).

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<sup>23</sup> See: [https://www.cityofberkeley.info/Clerk/City\\_Council/2018/10\\_Oct/Documents/2018-10-09\\_WS\\_Item\\_01\\_An\\_Evaluation\\_of\\_the\\_Pathways.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2018/10_Oct/Documents/2018-10-09_WS_Item_01_An_Evaluation_of_the_Pathways.aspx)

*Achieving this goal will require:*

- An additional \$1.3M in funding in year 1, growing to \$5.1M annually by 2023.
  - Administrative, staff, and services costs total \$370k in year 1, and \$1M annually by 2023.
  - Subsidy expenses total \$900k in year 1, and \$3.9M annually by 2023.
- New and existing below market-rate unit set-asides for chronic homelessness.

- 3. Enhance the Accuracy of Homeless Prevention Interventions by Targeting to Need.** Our ability to accurately target homeless prevention resources to people who are actually going to become homeless remains low.<sup>24</sup> Most people who are unstably housed in this country do not become homeless; our functional zero analyses necessarily assume that large numbers of people cannot be prevented, even with additional resources. For these reasons, discussed in more detail in Section II, we do not recommend focusing on homeless prevention at this time. Instead, we strongly recommend (i) targeting all prevention funds to those who are previously homeless and at risk of returning from rapid rehousing or permanent supportive housing interventions, and/or (ii) piloting a new, targeted approach to homeless prevention that prioritizes applicants based on imminent homelessness and relative level of need, and lowers barriers to receiving aid (such as certain documentation requirements).

*Achieving this goal will require an additional \$1.5M annually through 2023, growing annually with inflation/costs of living.* This funds:

- Flexible funds for keeping previously homeless people housed;
- Administration and flexible funds for a pilot Coordinated Entry approach to prevention that prioritizes based on need.

- 4. Continue to implement changes to Berkeley's Land Use, Zoning, and Development Review Requirements.**

Even if Council funds sufficient scattered-site housing subsidies, there is not enough available housing stock to utilize them--all Bay Area cities are competing for the same limited supply for their own homeless populations. Staff believes new housing construction will have to be part of any long-term plan to end homelessness in Berkeley.

An emerging body of research links high housing costs and low vacancy rates—and therefore, high rates of homelessness<sup>25</sup>—to land use and development regulations that restrict the creation of new housing of all income levels.<sup>26</sup> For example, a 2015

<sup>24</sup> See: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.926.5184&rep=rep1&type=pdf>

<sup>25</sup> See: [http://urbanpolicy.berkeley.edu/pdf/qrs\\_restat01pb.pdf](http://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf)

<sup>26</sup> See, for example, <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>



report from the bipartisan California Legislative Analyst's Office<sup>27</sup> found that urban density is growing at a slower rate in Coastal California relative to comparable metro areas nationally, in part because California's local governments (i) impose slow and cumbersome project review standards (each additional layer of independent review was associated with a 4 percent increase in a jurisdiction's home prices); (ii) impose growth controls, such as limiting height and densities via zoning regulations (each additional growth control policy a community added was associated with a 3 percent to 5 percent increase in home prices); and (iii) use CEQA and other design review processes to regulate housing construction (only 4 other states impose similar review standards). Such local policy decisions, the report concludes, are worsening California's income inequality, increasing poverty rates, increasing commute times, and forcing lower-income residents into crowded living situations.

Between 2014 and 2016, San Francisco and San Jose were the second and fourth highest performing metro economies in the world, respectively, as measured by employment and GDP growth per capita.<sup>28</sup> Berkeley—caught in the middle of these two global economic powerhouses—will likely continue to experience housing shortages as wealth accumulates amidst an inelastic housing supply.

Because similar pressures are emerging in other metro areas, Federal funders of affordable housing and homeless services are beginning to take note:

- For the first time, the US Interagency Council on Homelessness' new Federal Strategic Plan to Prevent and End Homelessness, released in July of 2018, recommends that local governments begin *“Examining and removing local policy barriers that limit housing development in the private market and have adverse impacts on housing affordability.”*<sup>29</sup>
- HUD has begun a stakeholder engagement process to reform enforcement of the Fair Housing Act by tying federal grants to less restrictive local residential zoning regulations.<sup>30</sup>

With this in mind, the pace with which new housing is currently being developed in Berkeley will likely not accommodate a declining annual homeless population over time. Staff recommends that Council heed the emerging funding pressures noted above and continue the difficult process of examining how local land use restrictions can be reformed with a specific eye towards alleviating homelessness.

### *Costs and Impacts of Strategic Goals and Recommendations*

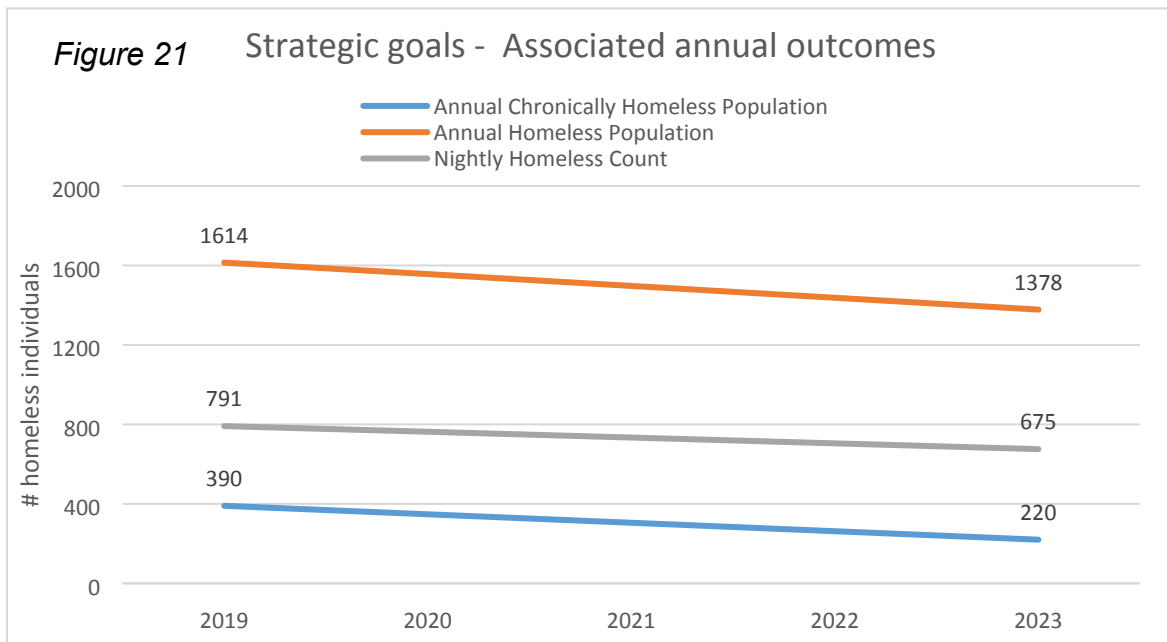
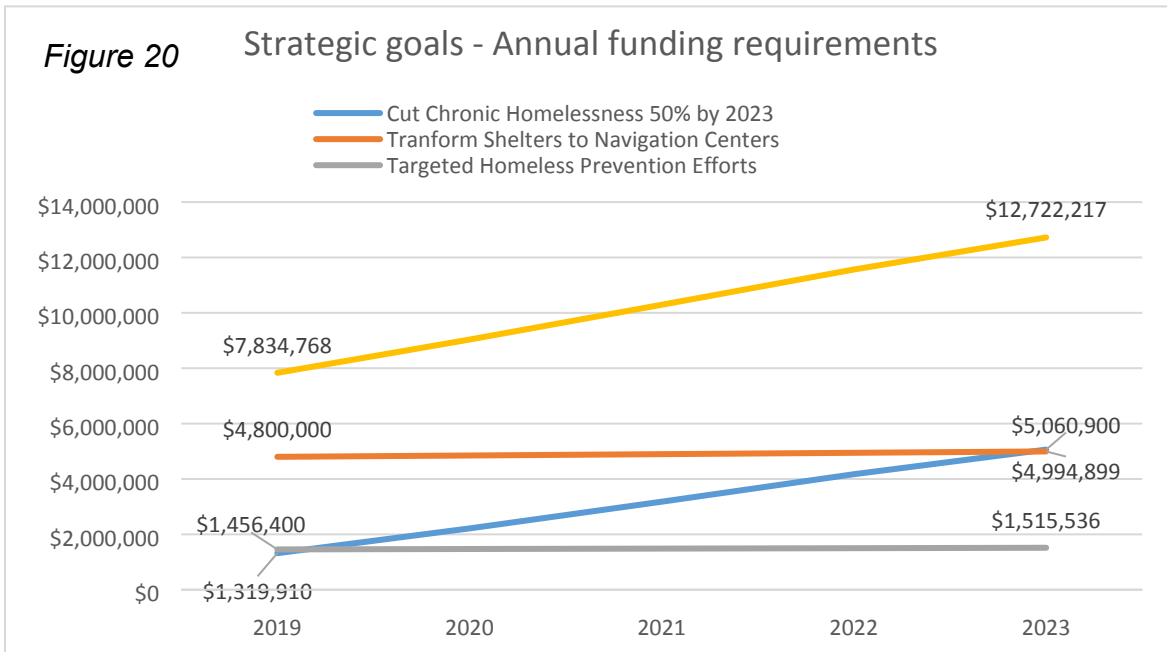
<sup>27</sup> See: <https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.pdf>

<sup>28</sup> See: <https://www.brookings.edu/research/global-metro-monitor-2018/>

<sup>29</sup> See p. 20: [https://www.usich.gov/resources/uploads/asset\\_library/Home-Together-Federal-Strategic-Plan-to-Prevent-and-End-Homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/Home-Together-Federal-Strategic-Plan-to-Prevent-and-End-Homelessness.pdf)

<sup>30</sup> See: <https://www.wsj.com/articles/hud-moves-to-shake-up-fair-housing-enforcement-1534161601>

Figure 20 summarizes the annual costs associated with strategic recommendations #1, 2, and 3 above, while Figure 21 highlights the relative impact these goals would have on the city’s homeless population through 2023.



**CONTACT PERSON**

Peter Radu, Homeless Services Coordinator, HHCS, (510) 981-5435.



Office of the City Manager

INFORMATION CALENDAR  
March 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Kelly Wallace, Interim Director, Health, Housing & Community Services Department  
Subject: Homeless Commission Meeting Cancellations

INTRODUCTION

This report serves to advise Council that the Homeless Commission has canceled two consecutive meetings for lack of a quorum.

CURRENT SITUATION AND ITS EFFECTS

On January 9<sup>th</sup>, 2019, the regular meeting of the Homeless Commission was canceled after roll call found a lack of quorum (5 appointees with 2 present and 3 absent). On February 13, 2019, the second consecutive regular Homeless Commission meeting was canceled after roll call for lack of quorum (4 appointees with 2 present and 2 absent).

BACKGROUND

Resolution No. 65,127-N.S., passed by Council on December 14, 2010, requires Commission Secretaries to submit an information report whenever a Commission cancels two consecutive meetings for lack of quorum.

ENVIRONMENTAL SUSTAINABILITY

There are no environmental effects associated with this report.

CONTACT PERSON

Peter Radu, Secretary to the Homeless Commission, HHCS, 510-981-5435.





Office of the City Manager

26

INFORMATION CALENDAR

March 26, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Jordan Klein, Economic Development Manager

Subject: Berkeley Economic Dashboards

INTRODUCTION

The Office of Economic Development (OED) is pleased to present the Citywide Economic Dashboard update for March 2019 (Attachment 1) and the updated Commercial District Dashboards (Attachment 2).

CURRENT SITUATION AND ITS EFFECTS

By a variety of indicators, Berkeley's economy continued to perform healthfully through 2018. However, there are also some indicators of slowed or flattening growth, such as decreasing sales tax revenues and increasing office vacancy. Recently, some Bay Area economists have pointed to regional trends that indicate that the current period of economic expansion, which has lasted for nearly a decade, has reached its apex, and a recession is likely to occur by 2022 or sooner.

Key findings include:

- **Berkeley's sales tax performance decreased from 2017 to 2018.** Annually, sales decreased 5.8% citywide from 2017 to 2018, inconsistent with the 9-county region (+0.2%) and decreasing more than the state (-1.1%). Sales tax revenues in Q2 2018 were lower than those in Q2 2017 by 2.2%, due chiefly to a decrease in sales tax generated by Retail activities (-2.2%). As of Q2 2018, the Food & Beverage Services subsector was the largest contributor to the city's sales tax revenue (34.5%), with Retail next at 28%.
- **Berkeley's unemployment rate remains low.** Berkeley's average unemployment rate for Q4 2018 (Oct – Dec) was 2.8 percent, up one tenth (0.1) of a percentage point from the same period during the previous year.
- **Office vacancy rates in Berkeley have increased from their nadir of 2016, but remain low compared to the East Bay.** Overall office availability increased six tenths of a percent from Q4 2017 (4.9%) to Q3 2018 (5.5%). However, Berkeley continues to have the lowest office availability rate of any municipality in the immediate East Bay sub-market. This is a function of several factors,

including limited inventory, high regional demand for transit-adjacent workplaces, and the quick absorption of new office space by growing Berkeley companies. The average asking rate for office space in Berkeley is \$3.40 per square foot.

- **Overall citywide ground floor commercial vacancy rates was up slightly to 5.0% in Q2 2018 (from 4.6% in Q4 2017).** In particular, West Berkeley and the North Shattuck districts have increased commercial vacancy rates this quarter, owing to key property turnovers that have larger square footages (2,000-10,000 square feet). The newly vacant spaces are being actively marketed for tenants and new leases are currently under development. In the majority of Berkeley's commercial districts vacancy rates have remained nearly flat, or slightly decreased. Downtown Berkeley's vacancy rate is 3.1%, the lowest rate since OED began collecting district-specific data in 2007.
- **Retail in commercial districts, as a share of total square footage, continues to decline, even as vacancy rates have largely remained stable (or slightly increased).** The percentage of ground floor commercial square footage occupied by retail uses has decreased from 44.8% in 2015 to 39.4% in 2018. During the same period, the overall citywide vacancy rate actually decreased nine tenths of a percent from 5.9% to 5.0%. As retail has declined, ground floor commercial spaces have been increasingly occupied by office uses, personal services, and other non-retail uses (including non-conforming uses, leased spaces and pending development projects).
- **Construction activity continues to increase.** Over the past three years, the number of housing units in the development pipeline has increased. As a result of this, construction activity has also increased. As of December 2018, there are 32 housing developments (with 5 or more housing units) that are entitled for development or under construction, which will contain 2,268 net new units; this represents a slight increase from the number of units that were entitled or under construction as of December 2017 (1,731). Looking ahead, an additional 1,183 net new units (in 28 distinct projects) are proposed in Berkeley.
- **Housing costs in Berkeley remain high for buyers for renters, consistent with the Bay Area region overall.** In 2018 Berkeley's median home sale prices remain higher than its neighboring communities, driven by a strong overall economy and limited housing inventory. As of December 2018 the median sale price for a single family home was \$1.24 million. Median citywide rents (including controlled units) in Berkeley have also increased slightly over the past year. Preliminary data from the City of Berkeley's Rent Stabilization Board for 2018 (anticipated release mid-March 2019) indicates the median rent for a studio is approximately \$1,800, up from \$1,600 in 2017.

## BACKGROUND

In a December 2015 information report to City Council, OED released a set of new publications, the Citywide Economic Dashboard and Commercial District Dashboards, which analyze a wide variety of economic trends and indicators in Berkeley. The dashboards are designed to make current economic information more accessible to Council, City staff, and the broader community. This information report provides the updated dashboard documents for March 2019. OED staff updates these dashboards on a semi-annual basis, as staffing allows, and has posted the most recent version on the City's website at <http://www.ci.berkeley.ca.us/oed/reports/>.

To produce these publications, OED staff compiled and analyzed a wide variety of data sources including the American Community Survey (US Census Bureau), the Quarterly Census of Employment and Wages (Bureau of Labor Statistics), Monthly Labor Force Data (California Employment Development Department), commercial real estate data (Newmark Cornish & Carey), housing market MLS data (Berkeley Rent Stabilization Board, Redfin) and sales tax data (MUNI Services/Avenu Insights). Staff also analyzed data from City databases including business licenses, building permits and planning permits, and City publications such as rent board reports and start up information from the Berkeley Startup Cluster, and those of Berkeley's startup incubators and accelerators. Finally, early in the fourth quarter of 2018 OED staff updated its periodic occupancy survey of ground floor commercial spaces in commercial districts around the City. Due to a lag in availability of some data, many of the findings presented in the attached publications are most relevant to the second half of 2018, but others reflect the second quarter of 2018.

#### ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Staff believes that the continued pursuit of sustainable economic goals, represents a strength for Berkeley and demonstrates a competitive advantage of the City and the region.

#### POSSIBLE FUTURE ACTION

Staff will, as directed by Council through previous and future referral items, assist other staff sections and partners to identify and frame policy ideas that support economic development priorities for the city.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Actions that facilitate increased economic activity tend to boost revenues related to sales tax and property tax, and thus have positive fiscal impacts on the city.

#### CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534.

Eleanor Hollander, Economic Development Project Coordinator, (510) 981-7536.

**Attachments:**

- 1: Citywide Economic Dashboard
- 2: Commercial District Dashboards





city of

# BERKELEY



## Economic Dashboard

March 2019

Office of Economic Development

**Disclaimer:** The City of Berkeley makes no representations about the suitability of the information contained in this document for any purpose. The information is provided "as is" without warranty, either express or implied, of any kind. The published document may contain technical inaccuracies or typographical errors. Changes are periodically added to the information herein. The City of Berkeley may make improvements and/or changes to the document at any time.

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# employment

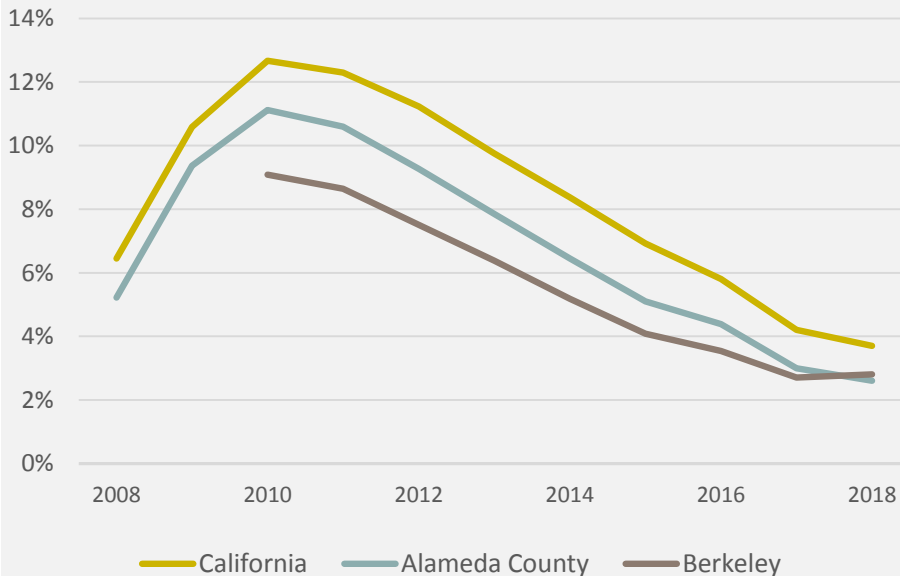
## labor force & employment figures

### City of Berkeley Averages, 2016-2018

| Year | Labor Force | Employed Residents | Unemployment Rate |
|------|-------------|--------------------|-------------------|
| 2016 | 62,166      | 60,000             | 3.5%              |
| 2017 | 63,700      | 61,900             | 2.7%              |
| 2018 | 64,700      | 62,900             | 2.8%              |

Source: CA Employment Development Department, Labor Market Information Division

### Unemployment Rates, Averages 2008-2018



Source: CA Employment Development Department (EDD), LMI Division, Q1 2018

### Employment & Jobs: Fast Facts

- Berkeley's average unemployment rate for 2018 was 2.8%, up from 2.7% in 2017.
- For context, Alameda County's average unemployment rate in 2018 was 2.6%, while California's was 3.7%.
- The total number of jobs in Alameda and Contra Costa counties (combined) increased by 3,100 jobs to a total of 1,208,300 jobs.

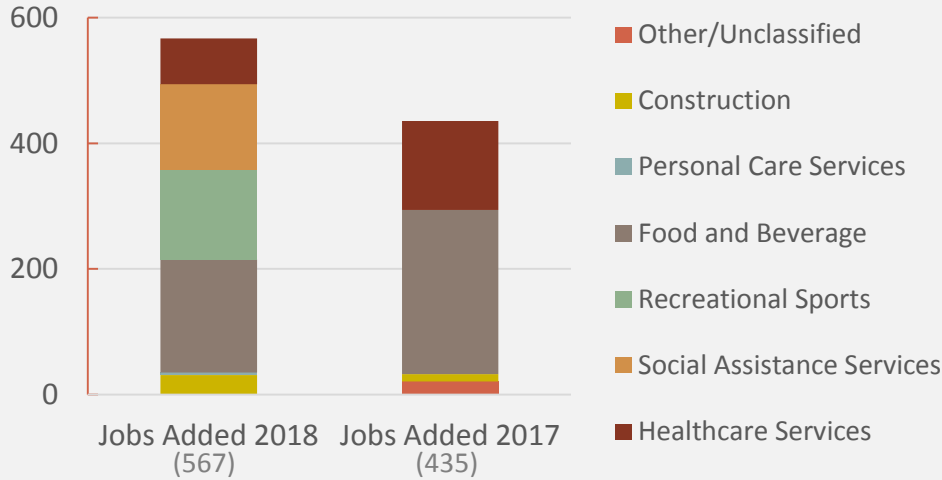


Sources: EDD, Quarterly Census of Employment and Wages (QCEW).  
Photos: Berkeley Career Day and tours (April 2018).

# employment

## growth by industry sector

Jobs Added 2017-2018 by Industry Sector



| Sector                     | Increase in Employment 2018 | Increase in Employment 2017 |
|----------------------------|-----------------------------|-----------------------------|
| Construction               | 5.5%                        | 2.11%                       |
| Personal Care Services     | 1.7%                        | -0.12%                      |
| Food and Beverage          | 2.9%                        | 4.37%                       |
| Recreational Sports        | 52.3%                       | 27.64%                      |
| Social Assistance Services | 5.0%                        | -1.30%                      |
| Health Care Services       | 1.2%                        | 2.65%                       |

Source: (EDD) Quarterly Census of Employment and Wages (QCEW)

## Diversity in the Small Business Sector



From 2017 to 2018, Berkeley has seen a growth of (self-identified) women and minority owned businesses. In 2018, 42% of all active businesses in Berkeley identify as minority owned (up from 37% in 2017) and nearly 20% of startups in Berkeley have at least one woman founder.

Two new women-owned Berkeley-based startups established in 2018 include:

**LookyLoo** is an AI-Powered Social Commerce platform that helps women discover clothing that they can feel confident in. AI is named Lucy and is one of the first real female AI - conceptualized, built and trained by women.



**MentorRoom** is an open, virtual community built on the values of learning, sharing, and helping others. They aim to inspire students to follow their dreams and ambitious aspirations in life, by providing them with a virtual village of resources, tools, transparency, and extraordinary heroes.

# business development

## top employers & innovation sector

### Berkeley's Largest 25 Employers, by Number of Employees

|                                  |                                    |
|----------------------------------|------------------------------------|
| Ansys, Inc.                      | Meyer Sound Laboratories           |
| Backroads Active Travel          | OC Jones & Sons                    |
| Bayer Healthcare LLC             | Siemens Corporation                |
| Berkeley Bowl Produce            | Solar Mosaic Inc.                  |
| Berkeley Cement Inc.             | Sutter Bay Hospitals               |
| Berkeley City College            | Target                             |
| Berkeley Marina Doubletree       | Thistle Health Inc.                |
| Berkeley Repertory Theatre       | Recreational Equipment Inc.        |
| Berkeley Unified School District | University of California, Berkeley |
| City of Berkeley                 | US Postal Service                  |
| Genji Pacific                    | Whole Foods Market California Inc. |
| Kaiser Permanente                | YMCA of the Central Bay Area       |
| Lawrence Berkeley Laboratory     | Source: EDD, QCEW Data Q1 2018     |

| Innovation Sector Firms by Growth Stage                                            | Number of Companies | Percentage of Overall |
|------------------------------------------------------------------------------------|---------------------|-----------------------|
| Startup Companies (no anticipated revenue for upcoming year)                       | 180                 | 56%                   |
| Emerging Companies (anticipated revenue, but no current profits)                   | 81                  | 25%                   |
| Established Companies (profitable, but do not necessarily have positive cash flow) | 44                  | 14%                   |
| Subsidiary Companies (owned or acquired by an established company)                 | 15                  | 5%                    |
| <b>Total Start Up Firms in Berkeley</b>                                            | <b>320</b>          | <b>100%</b>           |

### Innovation Ecosystem: Role of Incubators

Berkeley Incubators such as **SkyDeck**, **Cyclotron Road**, and **The Foundry @ CITRIS** are an invaluable resource to Berkeley's innovation sector - not only because they help startups get off the ground, but because they act as connectors for more mature companies and give founders a place to recruit new talent, share ideas, and find new sources of funding.



From right to left: Kiwi Bot out of SkyDeck; Noble Thermodynamic' emission-free engine out of Cyclotron Road; Elysian Lab's cannabis products out of CITRIS Foundry

To fully cultivate an innovation ecosystem, it is important for Berkeley to both enable early-stage startups to **launch** here and **retain** these innovation businesses as they grow to become larger, more profitable corporations. While our earliest stage startups typically employ few people, they represent a tremendous opportunity for growth and have brought more than **\$1.069 billion** in investment to Berkeley. The key challenges preventing this sector's growth in Berkeley are the limited availability of suitable real estate that can accommodate growth companies' needs as they employ more people, public transportation, especially to West Berkeley, and workforce309 housing affordability.

# business development

## small business revolving loan fund

The City of Berkeley's Revolving Loan Fund (RLF) provides access to capital for businesses that don't qualify for traditional commercial loans. Since the program was launched in 1980, the City has lent over \$2.4 million to 42 borrowers. There are currently 7 active loans. In Q4 2018, the Loan Administration Board (LAB) celebrated a new loan to Nabolom Bakery (see sidebar).

### Portfolio Summary

|                             | Total Loans    | Active Loans |
|-----------------------------|----------------|--------------|
| Number of RLF Loans         | 42             | 7            |
| RLF \$ Loaned               | \$1,995,527.00 | \$620,000    |
| Total Non-RLF \$ Leveraged  | \$7,564,140    | \$2,414,543  |
| Private Sector Jobs Created | 211            | 57           |
| Private Sector Jobs Saved   | 101            | 77           |

Source: Berkeley OED

### Current Borrowers Include:



**NABOLOM BAKERY**

ANTON  
SALON



### The Newest RLF Loan Recipient | Nabolom Bakery



Photos: Nabolom Bakery (bottom right) courtesy of Kelly Sullivan

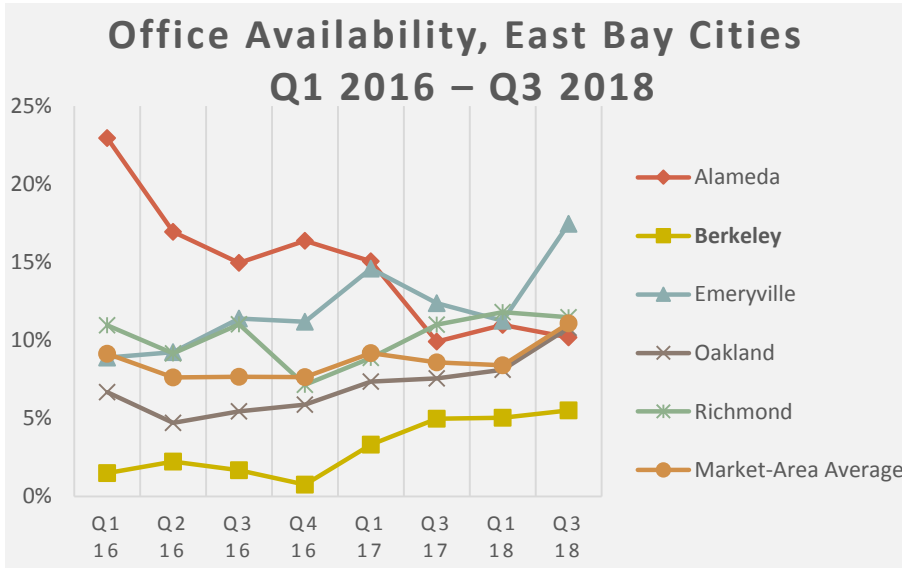
**Nabolom Bakery and Pizzeria**, co-owned by two East Bay natives Julia Elliot and Sabra Stepak, recently were approved for a small business loan from the Loan Administration Board to make improvements to the business and purchase new equipment. The ongoing relationship with the loan program has given them the opportunity to continue to grow their beloved Berkeley business and purchase a new pizza oven.

# commercial activity

## office trends & transactions

| Q3 2018 Office Market, Berkeley | Indicators   |
|---------------------------------|--------------|
| Total Inventory                 | 3,407,669 SF |
| Under Construction              | 42,000 SF    |
| Availability Rate               | 5.50%        |
| Qtr Gross Absorption            | 87,877       |
| Qtr Net Absorption              | 11,252       |
| YTD Net Absorption              | 65,467       |
| Average Asking Rent             | \$3.40 / SF  |

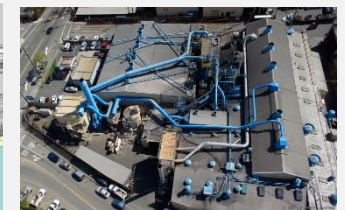
Source: Newmark Cornish & Carey, 3Q18 East Bay Office Market Report



Source: Newmark Cornish & Carey, 1Q18 East Bay Office Market Report

## Office and Industrial Updates

- In 2018, Berkeley's 3Q office availability rate increased to 5.5%, a six tenths of a percent increase from 2017's 4.9%.



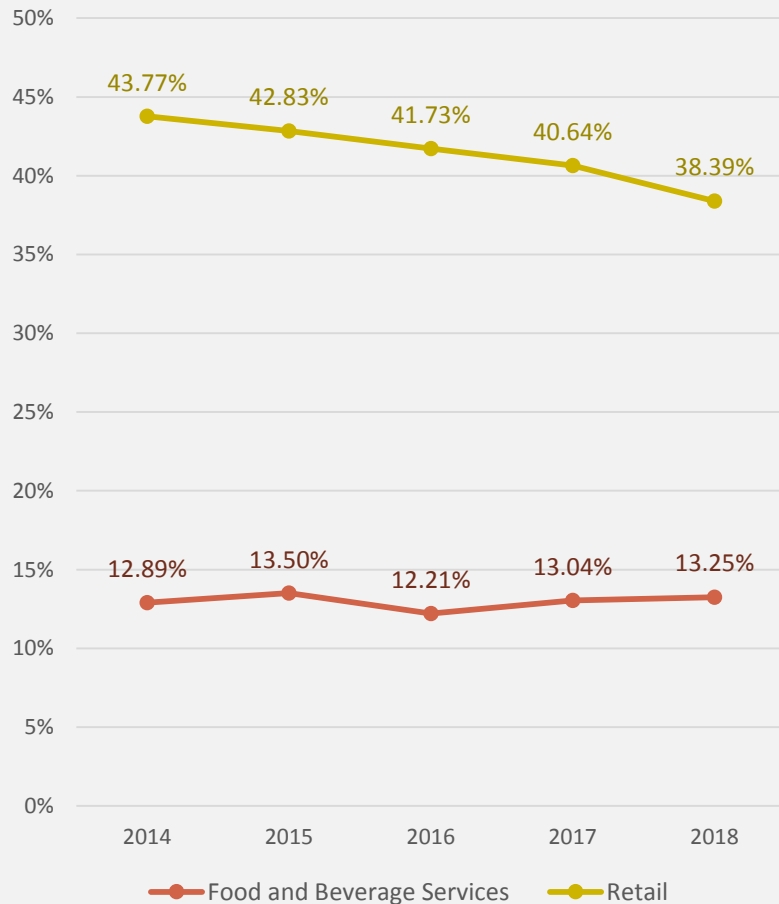
### Notable listings:

- 600 Addison: The two-block-long swath of land along Aquatic Park has been owned by the Jones family since 1979. The site has an outstanding application for development of a premier life science research and development campus along the waterfront, and is being marketed as such.
- Pacific Steel Casting wound down its operations in summer 2018. The 8 acre site is being marketed as the 'Gilman Gateway'.

# commercial activity

## commercial trends & transactions

### Citywide Inventory By Retail and Food Uses, By Square Footage, 2014-2018



Source: OED Vacancy Database

From 2014 to 2018, commercial square footage occupied by retail uses has decreased. Ground floor commercial spaces have been increasingly occupied by food and beverage services. **Family-owned** and **legacy businesses** (defined as in business for over 20 years) are active in both of these categories in Berkeley. **Two are spotlighted below:**



**Kathmandu Imports** - In 1985, Deepak Singh, the owner of Kathmandu Imports, was one of the first retailers from the Himalayan Kingdom of Nepal to open a shop in Berkeley. His family owned business has expanded to four locations and includes a restaurant and food market run by his son Darren. Kathmandu Restaurant will celebrate it's 25<sup>th</sup> anniversary in April 2019.

**The Cheese Board Collective** -The Cheese Board was established in North Berkeley in 1967 and became a collective in 1971 when the original two owners decided to sell the store, at cost, to six employees. Now it employees over 60 people with two storefronts. They celebrated their 50<sup>th</sup> anniversary in 2018, and will be expanding to a third storefront in 2019.

Images: Daily Cal August 2018 (top), Cheese Board Collective (below)

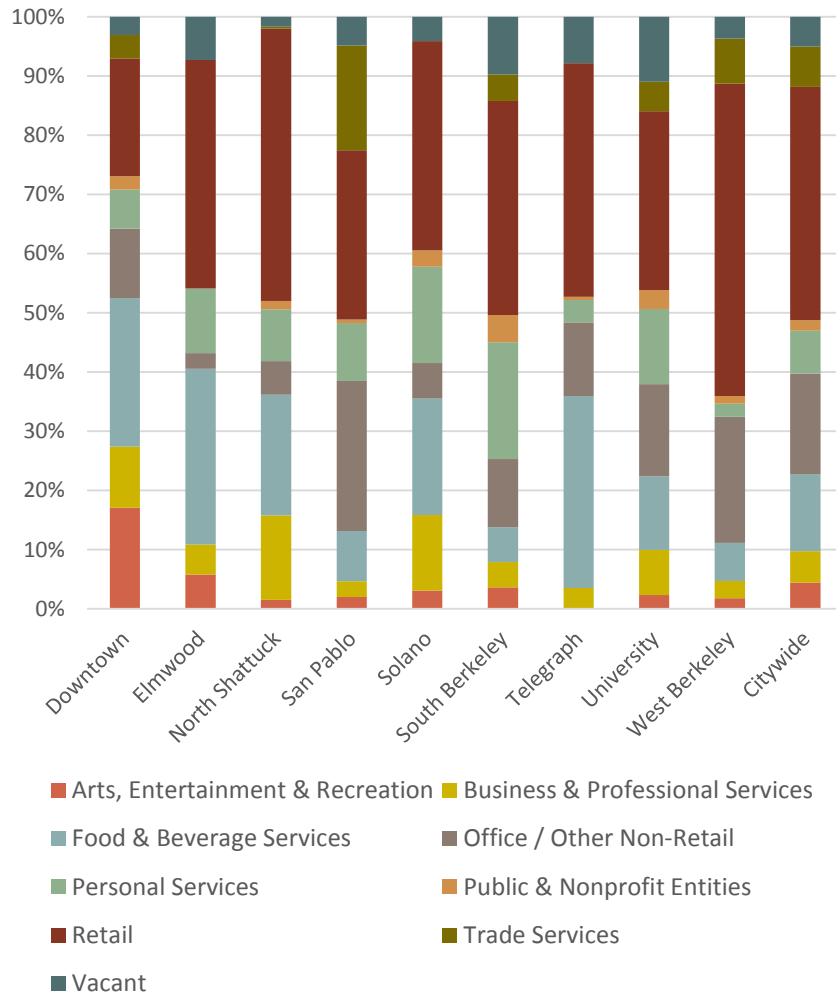




# commercial activity

## commercial districts & vacancy rates

Ground Floor Commercial Occupancy by Category (2018 Q4)



Vacancy Rates by District, Calculated by Square Footage, 2014 – Q4 2018

| District             | 2014 Q4     | 2015 Q3     | 2016 Q3     | 2017 Q1     | 2017 Q4     | 2018 Q4     |
|----------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Downtown             | 11.2%       | 8.4%        | 4.7%        | 4.2%        | 4.6%        | 3.1%        |
| Elmwood              | 2.0%        | 2.0%        | 1.5%        | 9.7%        | 5.4%        | 7.3%        |
| North Shattuck       | 1.6%        | 2.1%        | 2.6%        | 0.4%        | 0.4%        | 1.7%        |
| San Pablo            | 5.9%        | 7.3%        | 5.9%        | 6.0%        | 5.5%        | 4.9%        |
| Solano               | 4.2%        | 3.5%        | 7.5%        | 7.0%        | 4.8%        | 4.1%        |
| South Berkeley       | 8.9%        | 7.9%        | 8.2%        | 7.9%        | 9.6%        | 9.7%        |
| Telegraph            | 12.7%       | 7.1%        | 5.1%        | 5.8%        | 7.1%        | 7.9%        |
| University           | 4.4%        | 9.4%        | 14.2%       | 9.2%        | 12.0%       | 11.0%       |
| West Berkeley        | 3.9%        | 3.3%        | 8.8%        | 2.7%        | 1.9%        | 3.7%        |
| <b>Citywide Avg.</b> | <b>6.6%</b> | <b>5.9%</b> | <b>6.5%</b> | <b>4.7%</b> | <b>4.6%</b> | <b>5.0%</b> |

Source: Berkeley OED

Citywide, the ground floor commercial vacancy rate has increased to 5.0%, a slight increase from the fourth quarter of 2017. Downtown Berkeley’s vacancy rate is 3.1%, the lowest since OED began collecting district-specific vacancy data in 2007.

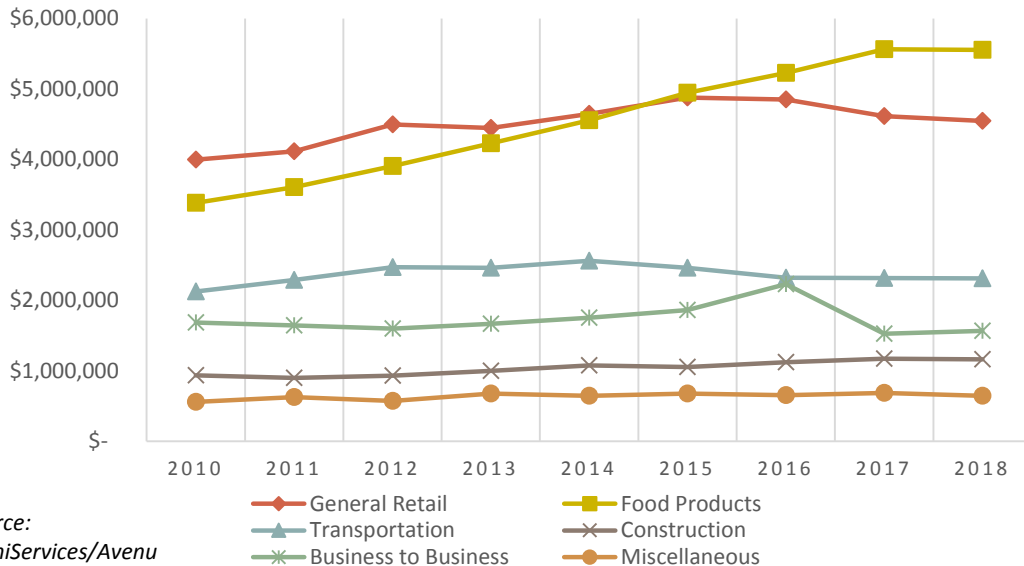
Source: Berkeley OED

# commercial activity

## sales tax revenues

| Total Annual Sales Tax Revenue - Past 4 Quarters | Q3 2016 – Q2 2017 | Q3 2017- Q2 2018 | Change |
|--------------------------------------------------|-------------------|------------------|--------|
| City of Berkeley                                 | \$17,589,373      | \$16,560,358     | -5.8%  |
| SF Bay Area (Nine County Region)                 | \$1,504,754,233   | \$1,508,172,860  | +0.2%  |
| State of California                              | \$6,602,237,647   | \$6,530,119,183  | -1.1%  |

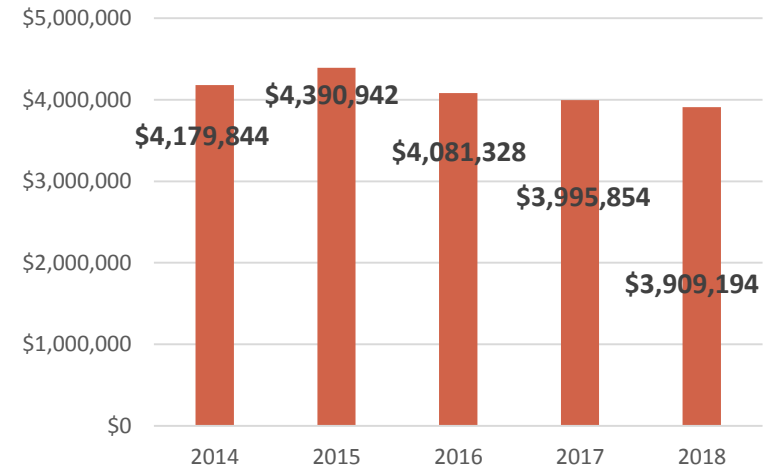
ANNUAL SALES TAX BY BUSINESS CATEGORY



Source: MuniServices/Avenu

CITY OF BERKELEY

Q2 SALES TAX REVENUES, 2014-2018



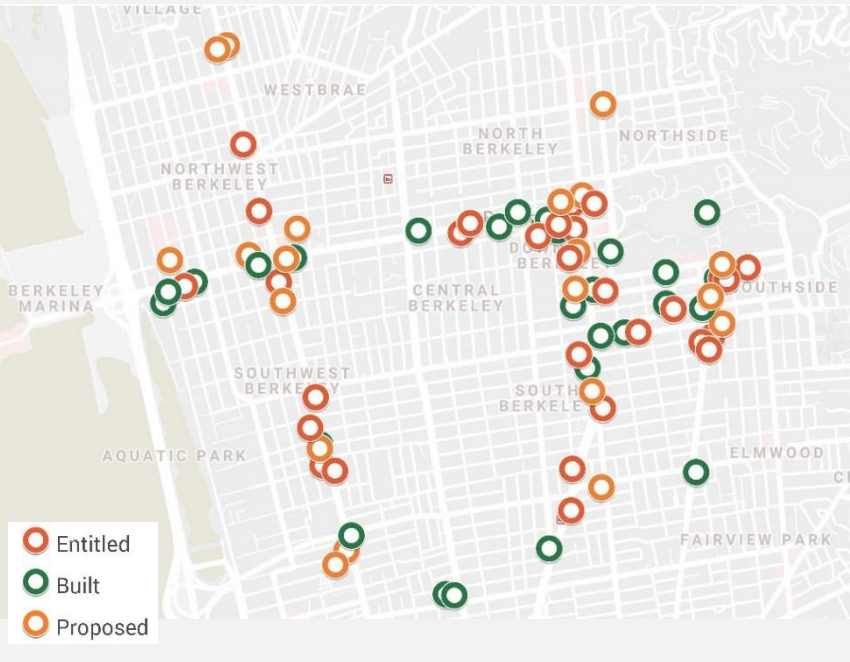
Source: MuniServices/Avenu (Figures Adjusted for 2018 \$)

Berkeley's **quarter over quarter** sales tax revenues decreased by 2.2% from the second quarter of 2017 to the second quarter of 2018. The drop over this period was due to the 2.2% decrease in *Retail* (General Retail) sales tax collected and a 6.3% decrease in sales tax collected from the *Construction Category* (Building Material sales etc.). As of Q2 2018, the *Food and Beverage* subsector continued to be the largest contributor to the city's sales tax revenue (34.5%), with *Retail* the next largest (28.0%). The *Transportation Category* is the 3<sup>rd</sup> largest contributor providing 7.2% of the total sales tax collected in Q2 2018.

# development & housing

## construction & pipeline

### Multi-Unit Projects (5+ Units), 2005 to Present



Data Source: City of Berkeley Planning Department (January 2019); Map: OED

As of January 2019, there are currently 32 housing developments of 5 or more units that are entitled for development or under construction, which will contain 2,268 net new units; this represents a slight increase from the number of units that were entitled or under construction as of December 2018 (1,919). An additional 1,183 units (in 28 distinct projects) are proposed. The overall trend in the last two years has been one of increasing numbers of units in the development and construction pipeline.

### Pipeline Project Highlights



Images: Johnson Lyman Architects

#### The Standard on Bancroft

The Standard, at 2580 Bancroft Way, will bring new student housing right across from the campus. The project will bring 122 units for housing along with a pool, and study lounge. The new building is slated to open in 2021.

#### Two Projects Approved through Senate Bill 35

The law requires cities to approve compliant projects providing 50% of residential units at affordable rents within 90 days of submittal.



#### 1601 Oxford

Satellite Affordable Housing Associates will provide 37 residential units, including 34 affordable units for seniors.



#### 2012 Berkeley Way

This project will be the largest ever permanent housing project for homeless and low-income residents with 89 rental units affordable, 53 permanent supportive housing units for people who were previously homeless and 44 short-term shelter beds, 12 of which will be for veterans.

Images: Leddy Maytum Stacy Architects (left) and 1601 Oxford HKIT Architects (right).



# downtown

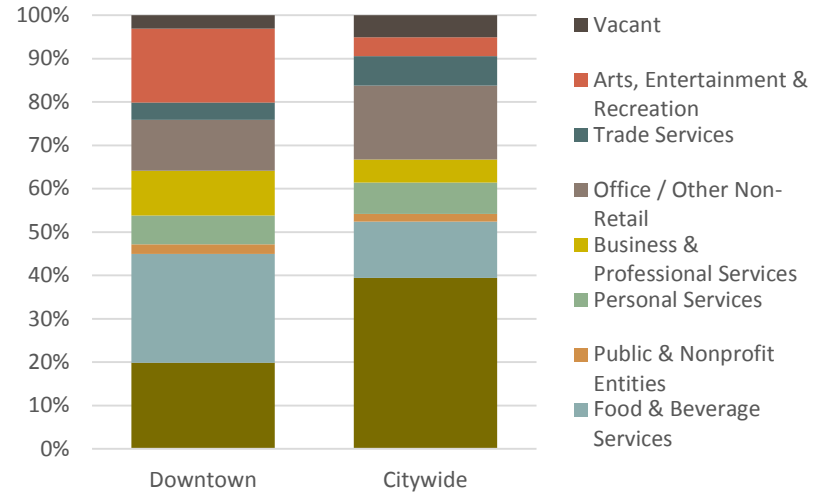
## 2018 Q4 snapshot



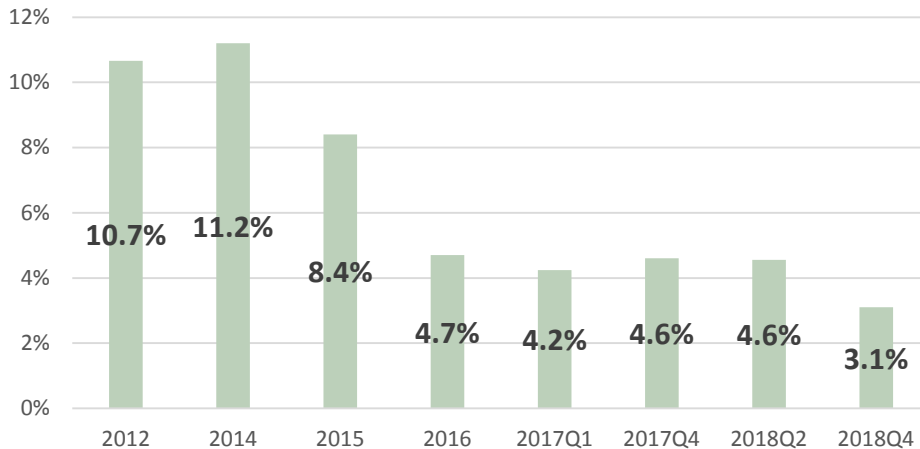
Downtown Berkeley serves as the City's core commercial district, meeting the daily needs of residents, students, workers, and visitors. The district benefits from a significant concentration of arts and entertainment uses, which occupy 17.0% of total ground floor commercial space in the district compared to 4.4% citywide. As of Q4 2018, the vacancy rate in Downtown is 3.1%, which is down from 4.6% in Q2 2018. Sales tax revenue generated in 2018 by Food & Beverage services in Downtown continues to rise coming in over one million dollars in 2018 (\$1,070,390). Sales tax revenue from Retail uses has increased as well. 2018's total is slightly up (15%) from 2017's marks to just over a half million dollars (\$542,435).



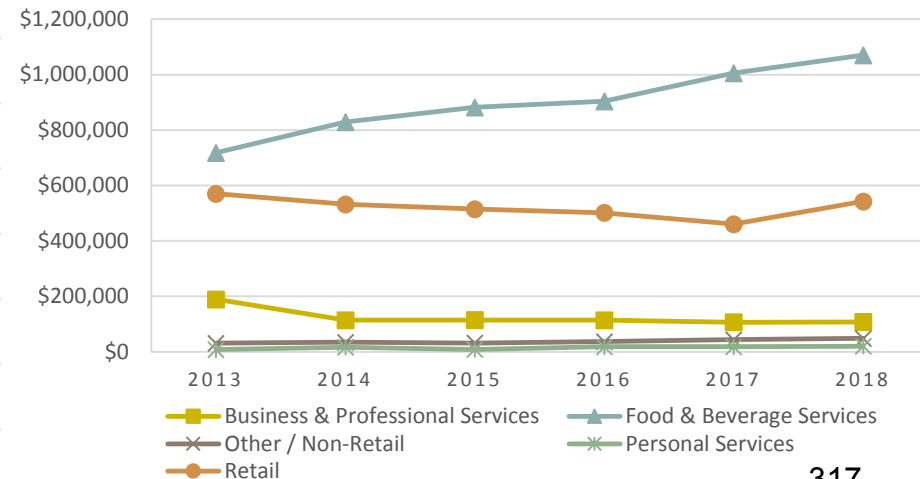
### Ground Floor Commercial Business Mix (by Square Footage), 2018 Q4



### Ground Floor Commercial Vacancy Rate (by Square Footage), 2011-2018



### Sales Tax Revenue by Sector, 2013-2018



Source: Berkeley OED

# elmwood

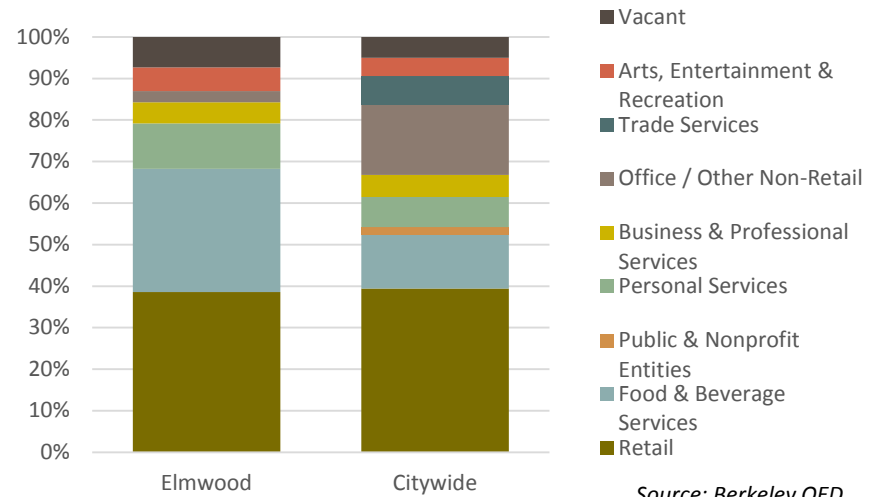
## 2018 Q4 snapshot



Elmwood is a compact three block commercial district along College Avenue near the Berkeley-Oakland border and the neighboring Rockridge shopping district. The Elmwood district is characterized by a high concentration of Food & Beverage services, and is a walkable, neighborhood-serving commercial district. As of Q4 2018, the district's vacancy rate by square footage was 7.3%, a decrease from the Q2 2018 high of 10.4%. Most of the remaining vacant storefronts in the Elmwood continue to be actively marketed for lease. Despite the lower vacancy rate this quarter, the sales tax collected from Retail and Food and Beverage uses continue to decline from the 2016 peak.

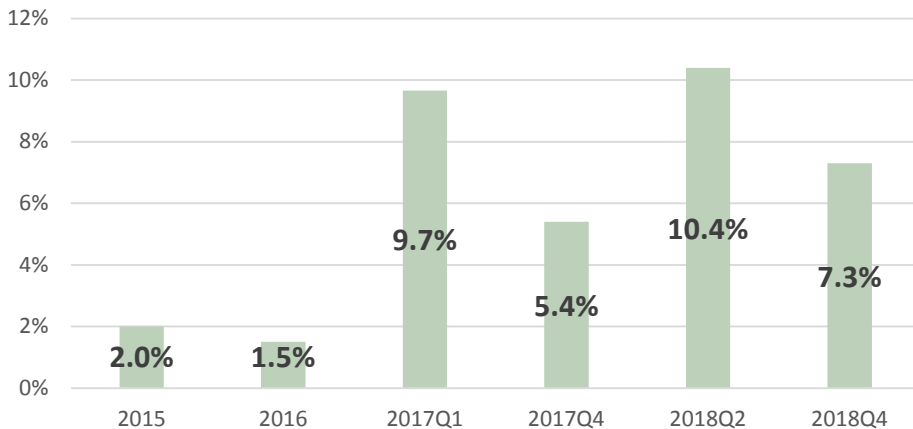


### Business Mix (by Square Footage), 2018 Q4



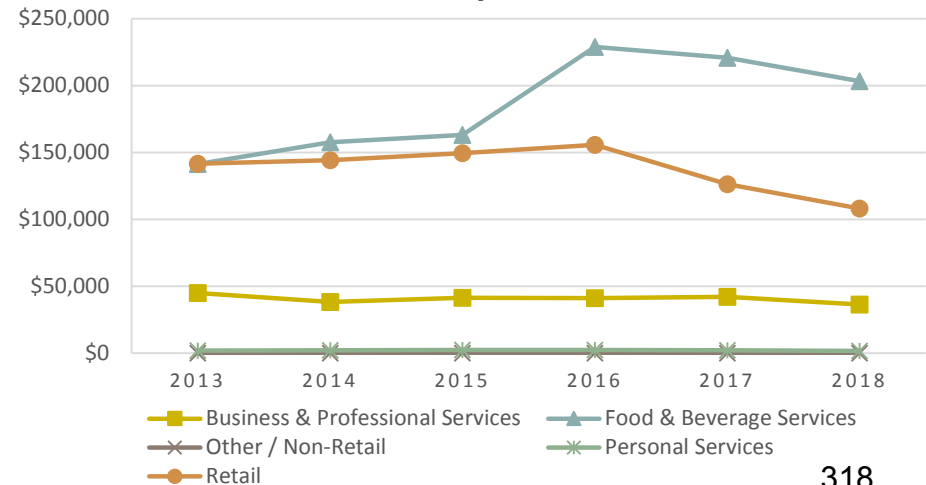
Source: Berkeley OED

### Ground Floor Commercial Vacancy Rate (by Square Footage), 2011-2018



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2013-2018



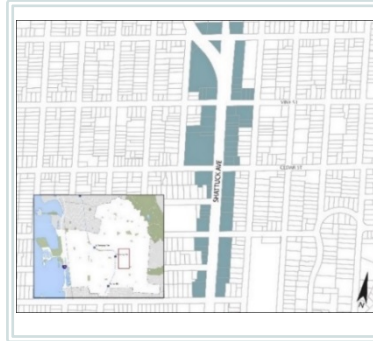
318  
Source: MuniServices/ Avenu

# north shattuck

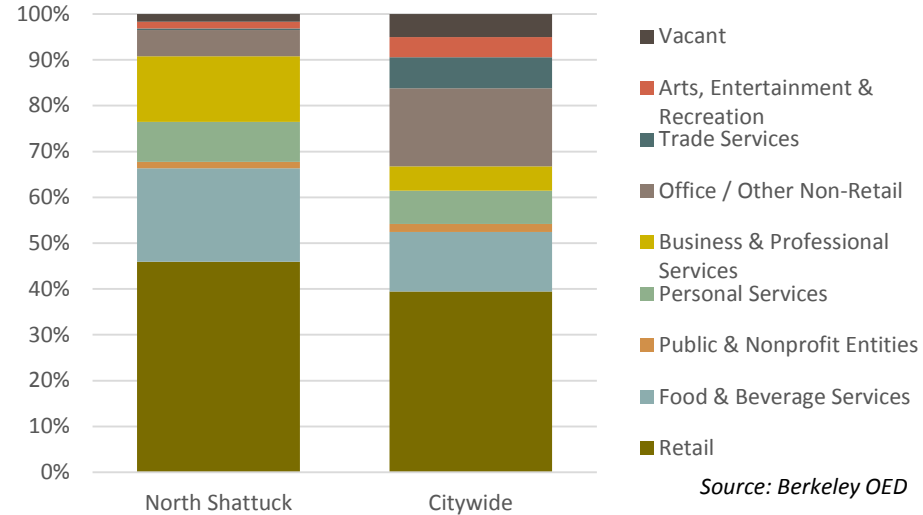
## 2018 Q4 snapshot



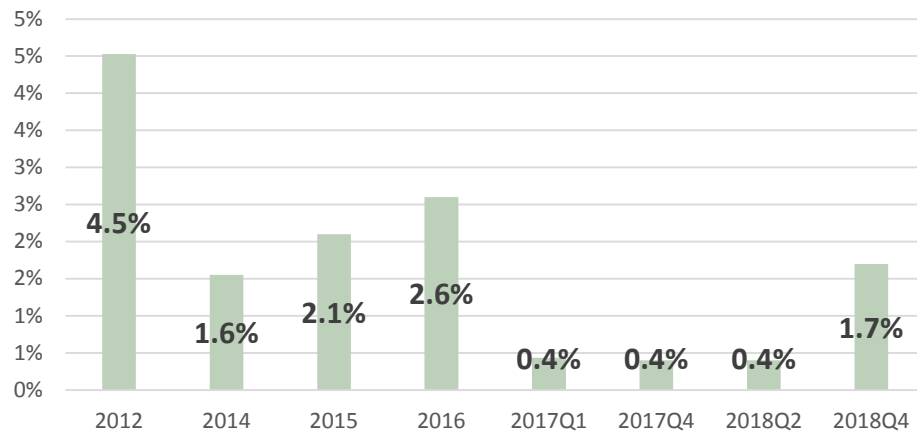
North Shattuck is one of Berkeley's oldest commercial districts, alternately known as the "Gourmet Ghetto." The district is characterized by a high concentration of well-known, long-standing, and celebrated restaurants, including Chez Panisse and the Cheeseboard. North Shattuck is both a walkable, neighborhood-serving commercial district as well as a global destination for food and dining. As of Q4 2018, the district's vacancy rate by square footage was 1.7%, which has risen since Q2 2018. While the end of this quarter saw the closing of two long-standing operations, Virginia Bakery and the Produce Center (both in business 30+ years), two new establishments to look forward to in 2019 include a Cheeseboard expansion at the corner of Shattuck and Vine Streets and Cupcakin' Bakeshop at Shattuck and Virginia Streets.



### Business Mix (by Square Footage) 2018 Q4

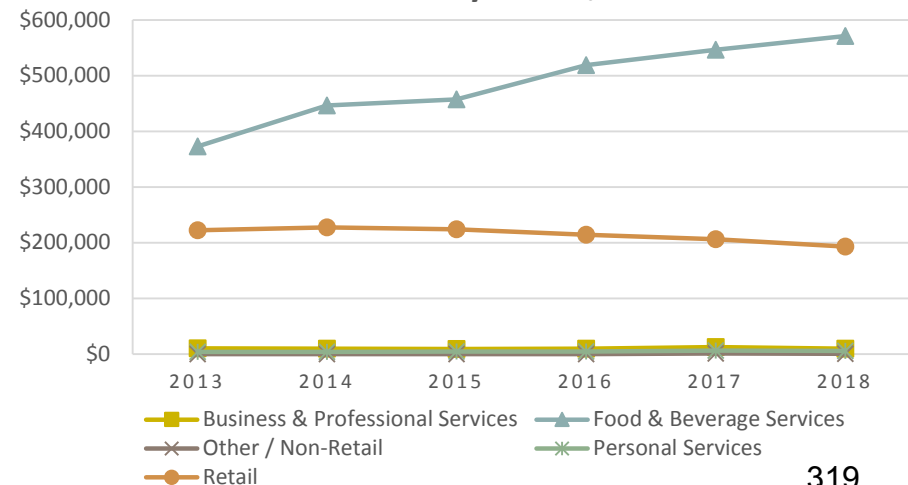


### Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2018



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2013-2018



Source: MuniServices/Avenu

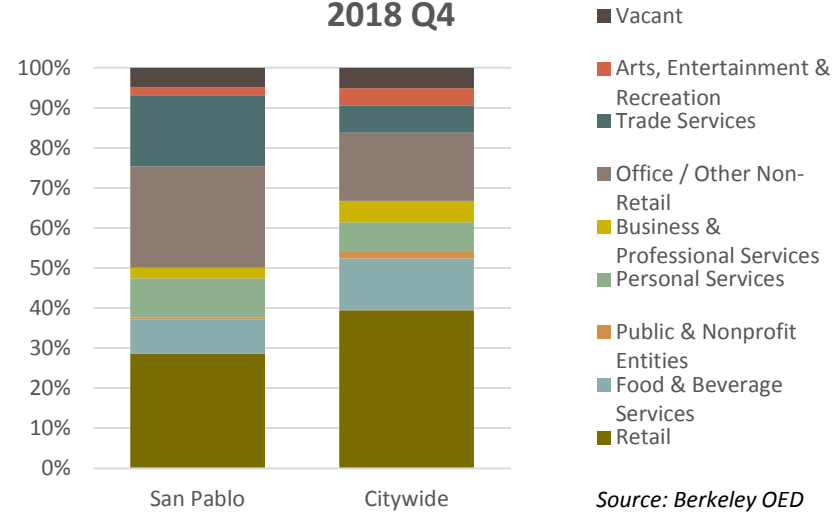
# san pablo | 2018 Q4 snapshot



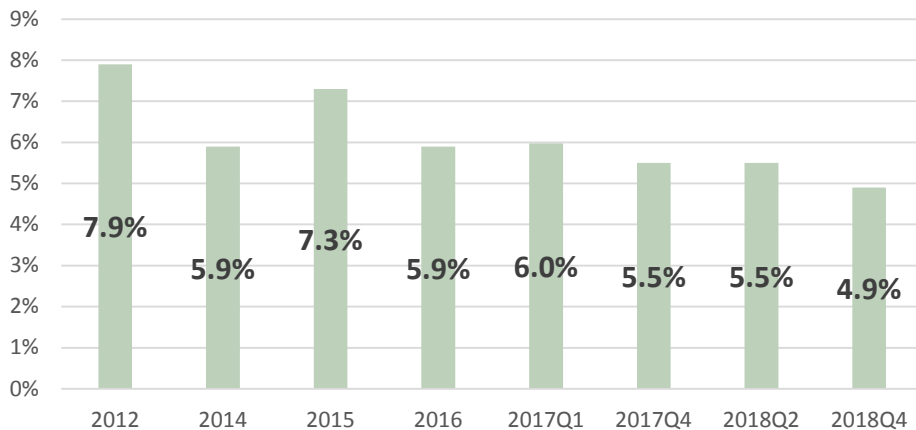
San Pablo Avenue is Berkeley's largest commercial corridor, running the entire north-south length of the City. San Pablo is characterized by a high concentration of Trade Services (17.7%), including over 60 automobile services businesses. San Pablo functions more as a regional destination for specific uses rather than a walkable, neighborhood-serving commercial district; as such, it features smaller percentages of Food & Beverage Services (8.5%) and Personal Services (9.8%). In Q4 2018, the district's vacancy rate by square footage was 4.9%, the lowest recorded in 5 years, a slight decrease from Q2 2018. Retail Sales tax revenue has decreased by 17% in the last year but continues to be the largest source of tax revenue for the Avenue.



## Business Mix (by Square Footage) 2018 Q4

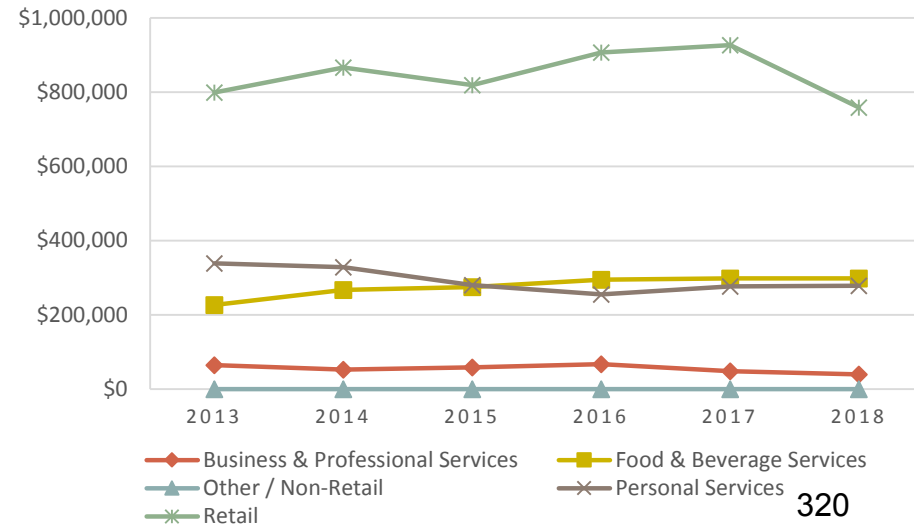


## Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2018



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2013-2018



320

Source: MuniServices/ Avenue



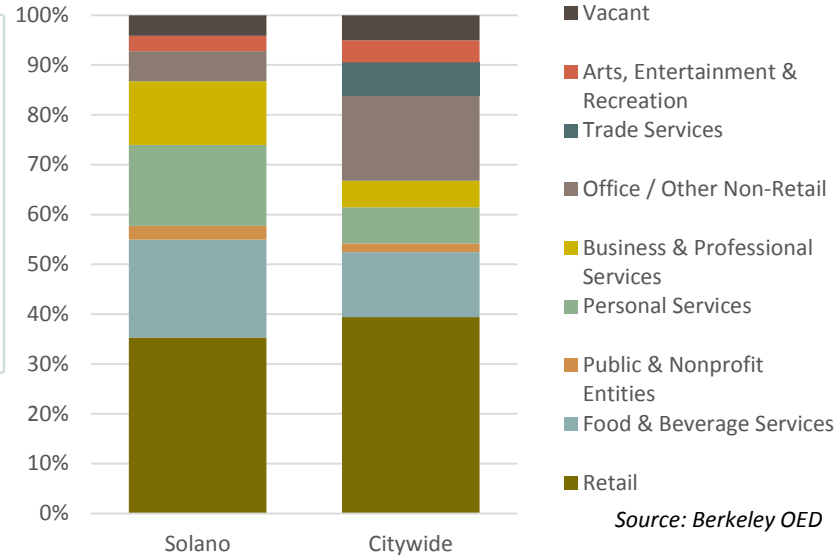
# solano | 2018 Q4 snapshot



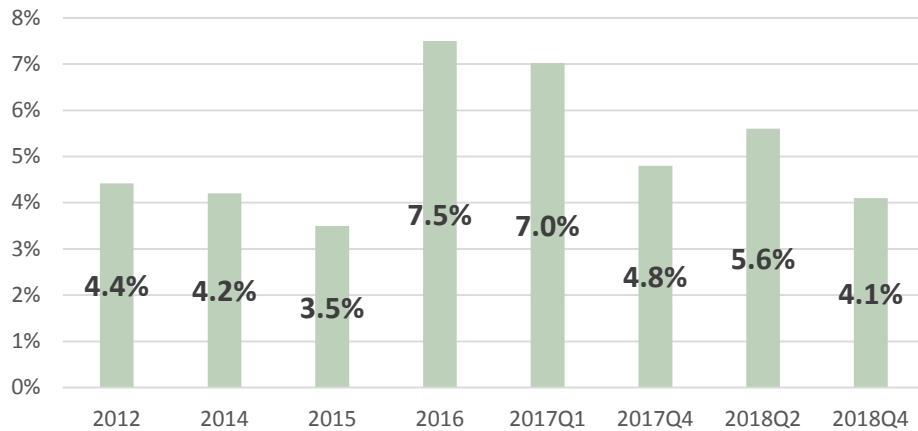
Solano is a small commercial district in North Berkeley, with a total of 130 commercial spaces and approximately 191,000 square feet of commercial space. It shares a border with Albany and is situated next to a large elementary school and an active neighborhood of single-family homes. Solano has a large key asset (the former Oaks Theatre) that is due to be occupied by a climbing gym in 2019. The district's vacancy rate by square footage was 4.1%, a decrease from Q2 2018 (5.6%). Despite the decrease in vacancy in 2018, Solano Avenue is showing a slight decrease in both Retail and Food and Beverage sales tax revenue over the same period.



## Business Mix (by Square Footage), 2018 Q4

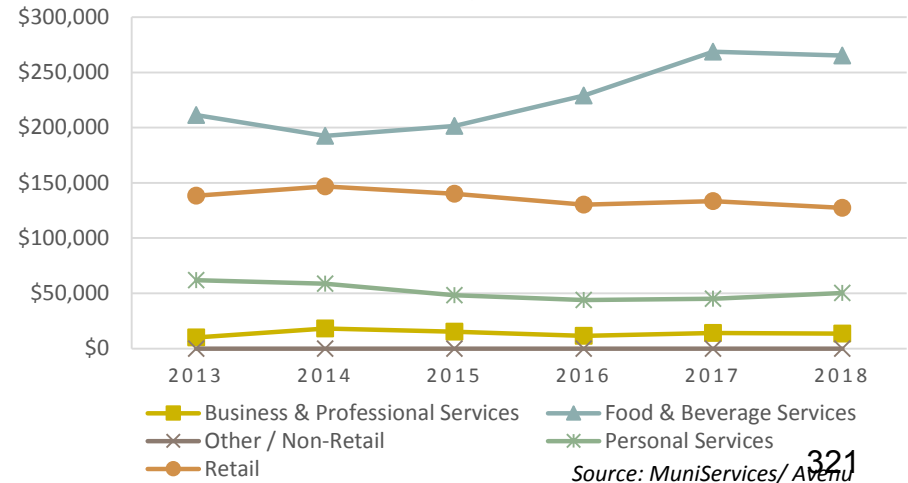


## Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2018



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2013-2018



# south berkeley

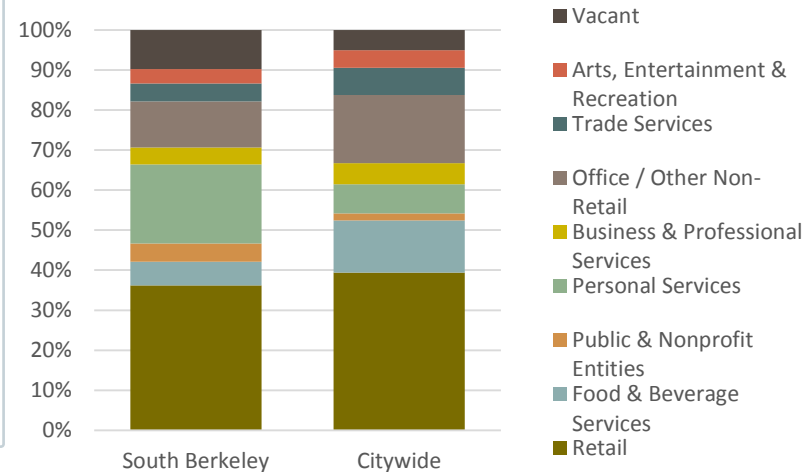
## 2018 Q4 snapshot



South Berkeley is a large district stretching over an area known for its cultural diversity and includes the Lorin District, the Sacramento corridor, and the South Shattuck area. South Berkeley includes several car dealerships, which accrue significant retail sales tax revenue for the City. As such, retail sales tax revenue in South Berkeley has increased steadily since 2013. The area also features a high concentration of Personal Services businesses (19.7% vs. 7.2% citywide) but is under-served by Food & Beverage services, which account for only 5.9% of ground floor commercial space, as compared to 13% citywide. As of Q4 2018, the district's vacancy rate by square footage was 9.7%, similar to the rate in 2017.

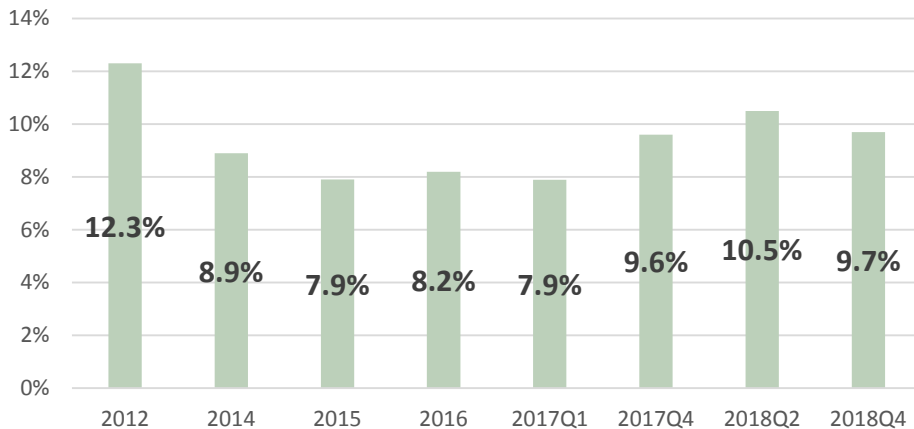


### Business Mix (by Square Footage) 2018 Q4



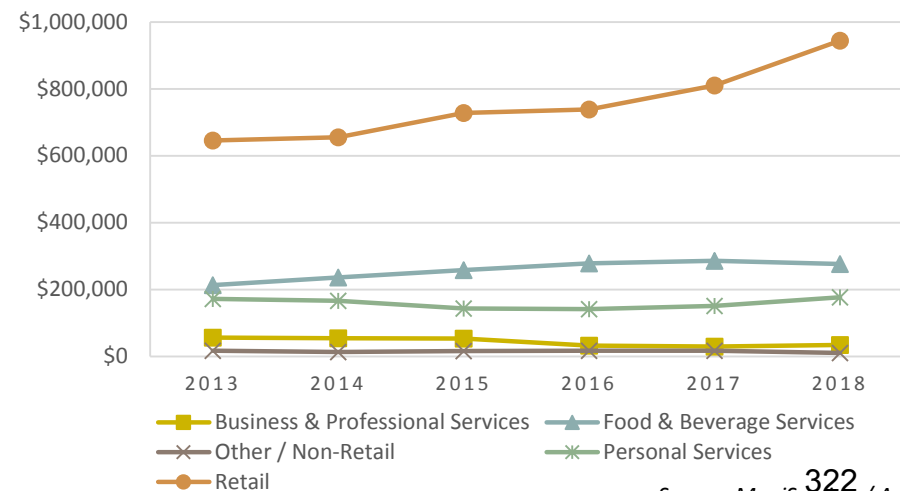
Source: Berkeley OED

### Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2018



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2013-2018



Source: MuniServices/ Avenu

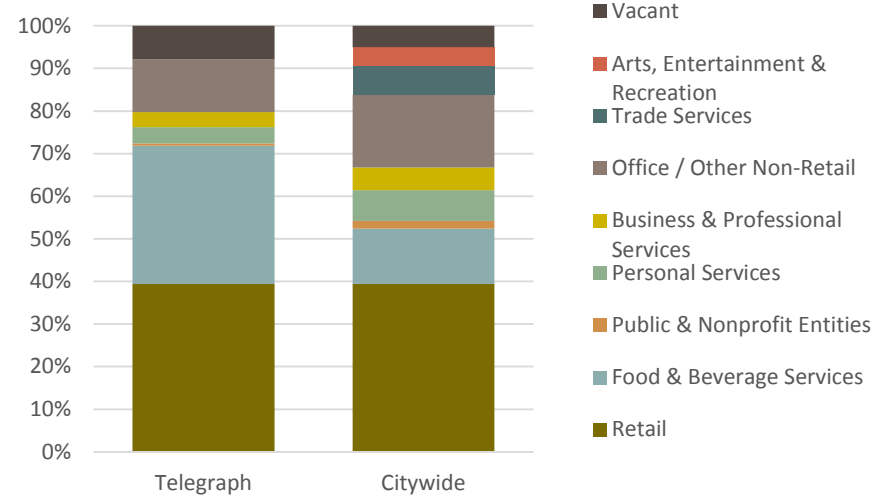
# telegraph | 2018 Q4 snapshot



The Telegraph district has undergone significant change over the past several years. Food & Beverage services have shown a dramatic increase since 2012, with 32.4% of Food & Beverage services accounting for ground floor commercial space in the district, as compared to 13.0% Citywide. As of Q4 2018, the district's ground floor commercial vacancy rate is 7.9%, significantly lower than the peak of 17.9% in 2012. Looking ahead, new commercial spaces will accompany new housing developments that are anticipated to open along Telegraph Avenue in 2019, including the Nexus Building at Blake and the Enclave at Haste Street.

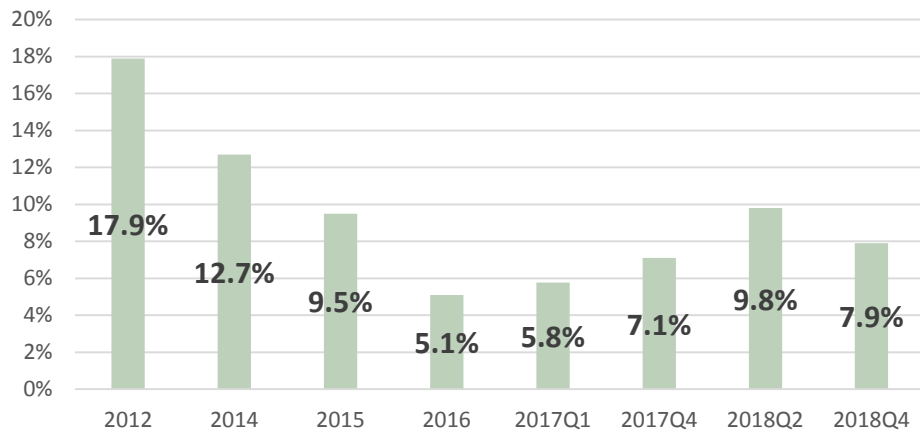


## Business Mix (by Square Footage), 2018 Q4



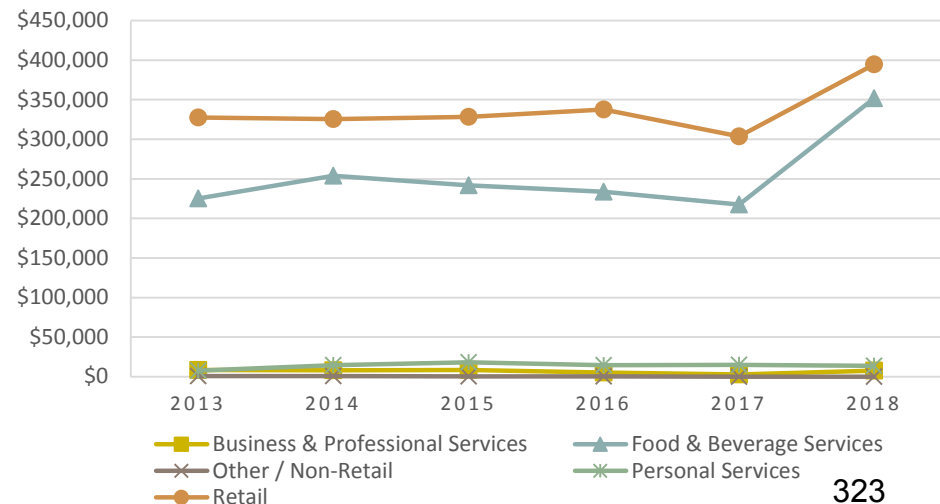
Source: Berkeley OED

## Ground Floor Commercial Vacancy Rate (by Square Footage), 2012-2018



Source: Berkeley OED

## Sales Tax Revenue by Sector, 2013-2018



323

Source: MuniServices/ Avenu

# university

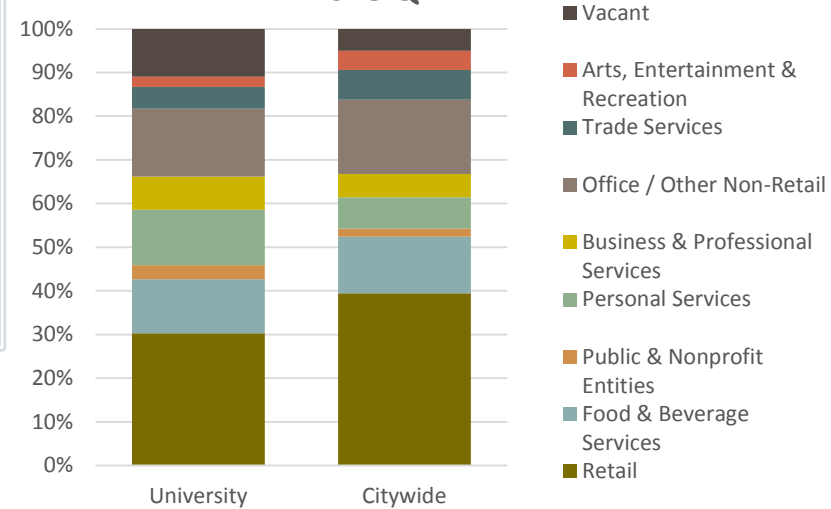
## 2018 Q4 snapshot



University Avenue, from Martin Luther King Jr Way to the waterfront, spans many of the City's neighborhoods and serves as the gateway to the UC Berkeley Campus. In 2018, Food & Beverage Services generated the most sales tax revenue for the district though Personal Services and Retail are close behind. The district is over represented in personal service (12.7% vs. 7.2% citywide) and public and non-profit uses (3.2% vs. 1.8% citywide) contributing to the atypical sales tax figures. In the last half of 2018, the vacancy rate along University Avenue decreased 4.2%, to 11% in Q4 2018.

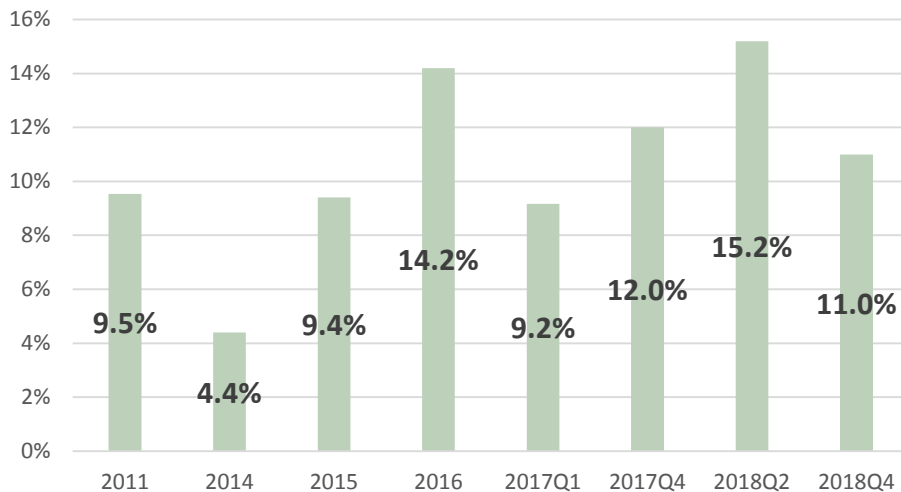


### Business Mix (by Square Footage) 2018 Q4



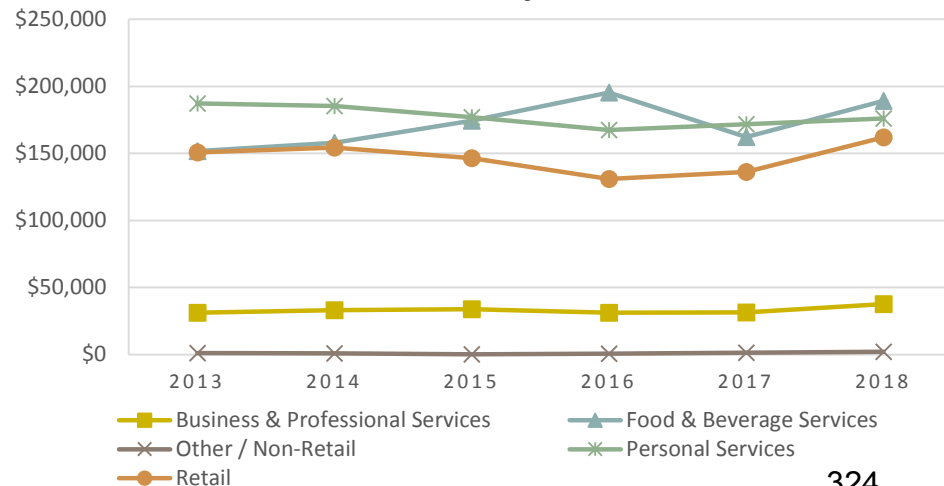
Source: Berkeley OED

### Ground Floor Commercial Vacancy Rate (by Square Footage), 2011-2018



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2013-2018



Source: MuniServices/Avenue

# west berkeley

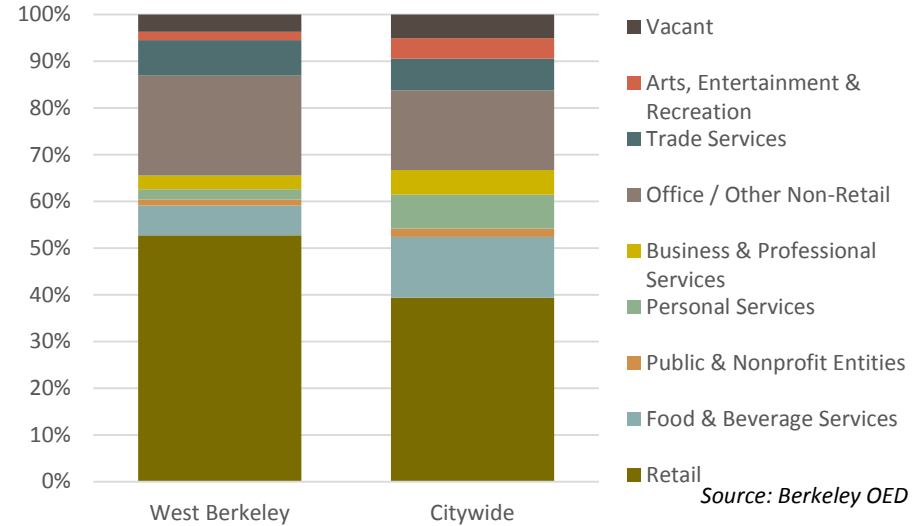
## 2018 Q4 snapshot



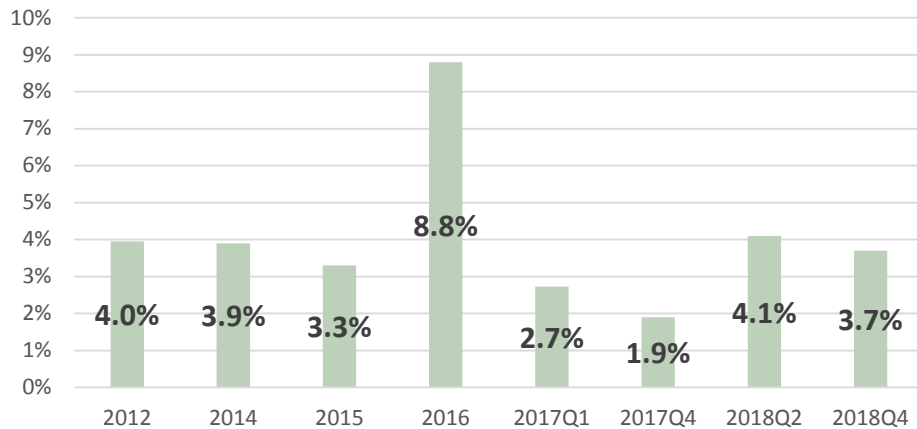
West Berkeley represents all commercial spaces west of San Pablo Avenue, including 4<sup>th</sup> Street and the Gilman Corridor. There are a number of major, large-floor-plate retailers, and a dense cluster of home supplies and construction businesses. There is also a higher percentage of non-retail commercial uses, including manufacturing and warehousing. Retail accounts for 52.7% of ground floor commercial space in the district, as compared to 39.4% citywide. The commercial vacancy rate as of Q4 2018 is 3.7%, significantly lower than 2016's high of 8.8%. New retail outlets are coming online in this area, though the sales tax revenue from retail continues to decrease from its peak in 2016 (\$4.22M).



### Business Mix (by Square Footage), 2018 Q4

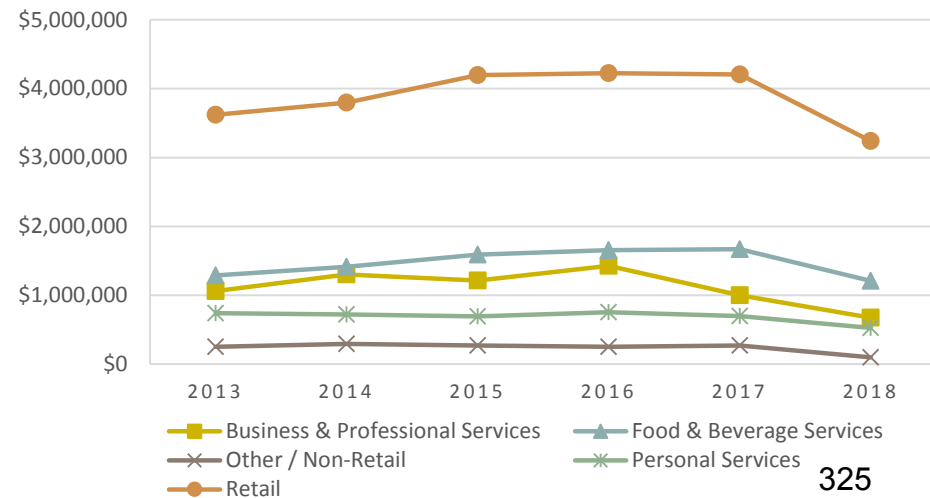


### Ground Floor Commercial Vacancy Rate (by Square Footage), 2011-2018



Source: Berkeley OED

### Sales Tax Revenue by Sector, 2013-2018



325

Source: Q3 2018, MuniServices/Avenu





Office of the City Manager

INFORMATION CALENDAR  
MARCH 26, 2019

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Philip Harrington, Director, Public Works  
Subject: Zero Waste Division's Integration of the Non-Exclusive Waste Hauler  
Commercial Franchisees Commercial Customers Update

INTRODUCTION

This is the final Information Calendar update on the Department of Public Works – Zero Waste Division's collection routes integration of more than 440 commercial community members into the existing refuse, fiber, mixed plastic containers and green/food waste routes serving more than 4,500 commercial accounts. These 440+ commercial customers' materials had been previously collected by City Council Approved Non-Exclusive Waste Hauler Commercial Franchise Agreement holders.

BACKGROUND.

At the City Council's May 26, 2015<sup>1</sup> meeting, Council authorized the Department of Public Works – Zero Waste Division (ZWD) to provide all commercial collection services for: refuse, dual stream recyclables (fiber and mixed containers/mixed plastic are collected separately), and green waste/food waste. This authorization initiated the process for City assuming collection services that had been previously provided by the non-exclusive commercial haulers. This expanded collection service would not include providing roll-off box containers (larger than 7 cubic yard capacities) and compactors to commercial customers.

The non-exclusive commercial haulers had only offered single stream recycling and not dual stream recycling collection. This expansion of services, from single stream to dual stream, would expand the City's recycling volumes for fibers (old corrugated cardboard and mixed papers), mixed plastic containers and green/food waste.

In addition, and per the Berkeley Municipal Code, the non-exclusive commercial haulers cannot collect wet waste, such as green waste and/or food waste. Therefore, this additional source separated recycling is a new service option for these commercial accounts and would increase landfill diversion volumes. This expansion of the City's commercial collection services was reaffirmed at the City Council's October 18, 2016<sup>2</sup>

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<sup>1</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2015/05\\_May/Documents/2015-05-26\\_Item\\_29\\_Scheduling\\_July\\_14,\\_2015.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/05_May/Documents/2015-05-26_Item_29_Scheduling_July_14,_2015.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2016/09\\_Sep/Documents/2016-09-13\\_Item\\_18\\_Non-Exclusive\\_Rubbish.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2016/09_Sep/Documents/2016-09-13_Item_18_Non-Exclusive_Rubbish.aspx)

public hearing for the award of three non-exclusive commercial waste hauling franchise agreements to Waste Management, Inc., Republic Services, Inc. dba Berkeley/Richmond Sanitary Services, and Biagini Waste Reductions Systems, Inc.

**CURRENT SITUATION AND ITS EFFECTS**

These non-exclusive commercial waste haulers had only offered single stream recycling (one container for all recyclables) containers to their commercial customers. The City has a dual stream collection system, also called source separated recyclable collection, which increases quantity of recycling participation and produces less contaminated volume of the materials collected. The separate collection of these material types supports the City’s commitment to its Zero Waste Goal.

With a dual stream collection system, the City needed to provide metal containers or plastic carts to accept and collect separately: 1) refuse; 2) fiber, cardboard, mixed paper, etc.; 3) bottles and cans; and 4) plant debris (green waste) and/or food waste.

During April through June 2017, ZWD performed customer site inspections to verify information provided by the non-exclusive haulers, such as customer name, location, and container/carts required. The non-exclusive hauler provided only single steam recycling containers and prohibited from collecting wet waste, so ZWD had to estimate the volumes for fiber, mixed plastic containers/bottles and green/food waste based on site inspections.

In October 2017 and based on ZWD’s site inspections, container/cart sizing, number of containers and/or carts required for material to be collected and service times, ZWD’s equipment needs for these 440+ commercial customers collection services were estimated to cost as follows:

| <u>Equipment</u>                                                                                                                                    | <u>Estimated Cost</u>   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| <ul style="list-style-type: none"> <li>• Metal bins<br/>106-1 cubic yard (cy) capacity, 148 - 2 cy, 90 – 3 cy,<br/>96 - 4 cy, 30 – 6 cy.</li> </ul> | \$ 322,000 <sup>3</sup> |
| <ul style="list-style-type: none"> <li>• Carts<br/>43 - 32 gal. capacity, 188 - 64 gal., 144 - 96 gal.</li> </ul>                                   | \$ 19,000 <sup>3</sup>  |
| <ul style="list-style-type: none"> <li>• Placement Services of Container and Carts</li> </ul>                                                       | \$ 75,000 <sup>4</sup>  |
| <ul style="list-style-type: none"> <li>• One Tractor-Trailer Unit</li> </ul>                                                                        | \$ 243,962 <sup>3</sup> |
| <ul style="list-style-type: none"> <li>• Two Front End Loader Collection Trucks</li> </ul>                                                          | \$ 615,998 <sup>3</sup> |
| <ul style="list-style-type: none"> <li>• Total Equipment Costs</li> </ul>                                                                           | <u>\$1,275,960</u>      |

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<sup>3</sup> Cost based on previous IFBs and Council approved purchases

<sup>4</sup> ZWD management cost estimate



As of this Information Calendar Report update, the equipment actual costs are as follows:

| <u>Equipment</u>                                                                                                                                                                                                                                                                                                        | <u>Actual Cost</u>                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Metal containers<br/>106 – 1 cubic yard (cy),<br/>148 – 2 cy, 90 cy, 96 – 4 cy, 30 – 6cy</li> <li>• Carts<br/>43 – 32 gal., 188 – 64 gal., 144 – 96 gal.</li> <li>• Placement Services of Container and Carts</li> <li>• Two (2) Front End Loader Collection Trucks</li> </ul> | <p>\$ 321,924</p> <p>\$ 19,000</p> <p>\$ 84,008</p> <p><u>\$ 739,160</u></p> |
| <br>Total Equipment Costs                                                                                                                                                                                                                                                                                               | <br>\$1,164,092                                                              |

At this update, the existing tractor-trailer fleet (8 units) have had sufficient capacity to transport the additional commercial refuse volumes collected, and ZWD is assessing the option to purchase an additional Tractor-Trailer unit included in the October 2017 assessment.

In August 2017, ZWD requested its routing software system contractor, RouteSmart™, to provide a cost and time completion estimate to assist ZWD to integrate these 440+ commercial accounts into the existing commercial account routes. After more than 3 months of work, the existing RouteSmart™ routing system support proved to be unreliable and ineffective to integrate the 440+ accounts into the existing 4,500+ commercial customer routes. Therefore, ZWD staff completed this routing integration by one account and material type at a time.

With an initial November 2017 notice, two December 2017 notifications, and January 2018 confirmation of service day(s) and service material type, the goal of ZWD’s outreach (the goal of the integration) and education (what and how to sort) program was to ensure these customers received in-depth and complete information. In addition, a mailer was sent in February 2017 welcome new customers to Berkeley’s ZWD and to provide phone numbers to request follow-up or education site visits.

On January 28, 2018, Zero Waste Division and the City Council authorized container and/or cart placement company<sup>5</sup> commenced delivery of more than 800 containers (1, 2, 3, 4, and 6 cubic yard capacity) and carts (32, 64 and 96 gallon capacity) at the more than 440 commercial customers’ locations.

On March 1, 2018, ZWD commenced collection of these 440+ commercial accounts with account verification work continuing through May 2018. In addition, commercial customers were requesting to downsize their refuse containers; reducing and increasing recycling metal containers and carts; and adding and/or increasing green/food waste

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<sup>5</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/12\\_Dec/Documents/2017-12-19\\_Item\\_13\\_Contract\\_Container\\_Pros.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/12_Dec/Documents/2017-12-19_Item_13_Contract_Container_Pros.aspx)

containers and/or carts. By late May and early June 2018, the vast majority of commercial customers' issues/complaints had been resolved.

#### ENVIRONMENTAL SUSTAINABILITY

According to the 2008 State Wide Characterization Data, the commercial business sector generates nearly 75% of the solid waste in California<sup>6</sup>. To support the increase recovery of recyclable materials and pursuant to State law, Alameda County implemented a mandatory commercial recycling and waste reduction to reduce landfill use and address growing environmental concerns of landfill disposal.

With the integration of these commercial accounts, the City's efforts towards its goal of Zero Waste is more broadly promoted and expanded to Berkeley's commercial community members. This effort also expands the continued reduction in the volume of materials buried forever in landfills and is consistent with the City's 2009 Climate Action Plan's Goals.

#### FISCAL IMPACTS

The costs of equipment and manpower required to assume these collection services from the non-exclusive commercial waste hauler franchisees customers have been within the HF&H study estimates presented to the City Council at its February 10, 2015 Worksession<sup>7</sup>. Due to the limitations of the FUND\$ system, the Finance Department has been unable to verify the actual additional revenues generated by the 440+ new commercial accounts.

However, an overall financial analysis of all ZWD commercial account revenues that is a comparison of quarterly revenues of existing commercial accounts prior to the integration of the 440+ accounts to quarterly revenues will be completed after the final integration. The additional revenues will offset the increased capital and budget impacts to the Zero Waste Enterprise Funds associated with these commercial customers.

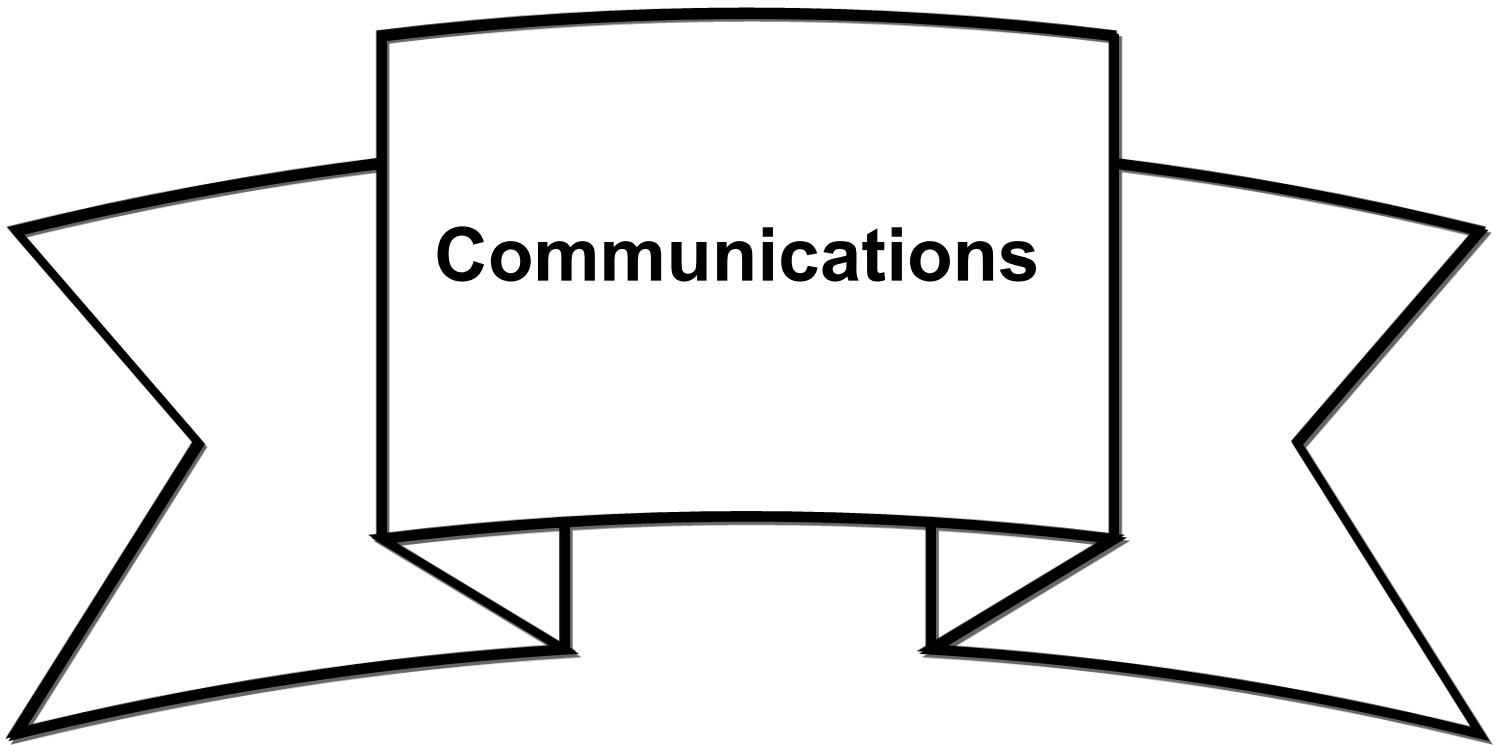
#### CONTACT PERSON

Greg Apa, Solid Waste & Recycling Manager, Zero Waste Division - Department of Public Works, (510) 981-6359.

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<sup>6</sup> Zero Waste Commercial Franchise Study, February 10, 2015 <http://bit.ly/2aalRe2B>

<sup>7</sup> [https://www.cityofberkeley.info/Clerk/City\\_Council/2015/02\\_Feb/Documents/2015-02-10\\_WS\\_Item\\_01\\_Zero\\_Waste\\_Commercial.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2015/02_Feb/Documents/2015-02-10_WS_Item_01_Zero_Waste_Commercial.aspx)



All communications submitted to the City Council are public record. Communications are not published directly to the City's website. Copies of individual communications are available for viewing at the City Clerk Department and through Records Online.

**City Clerk Department**

2180 Milvia Street  
Berkeley, CA 94704  
(510) 981-6900

**Records Online**

<http://www.cityofberkeley.info/recordsonline>

To search for communications associated with a particular City Council meeting using Records Online:

1. Select Search Type = “Public – Communication Query (Keywords)”
2. From Date: Enter the date of the Council meeting
3. To Date: Enter the date of the Council meeting (this may match the From Date field)
4. Click the “Search” button
5. Communication packets matching the entered criteria will be returned
6. Click the desired file in the Results column to view the document as a PDF