



Planning Commission

# AGENDA

## REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

**Wednesday, November 1, 2023**

5:30 PM

**North Berkeley Senior Center**

1901 Hearst Avenue, Berkeley

See **“MEETING PROCEDURES”** below.

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

### **PRELIMINARY MATTERS**

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

- 3. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
- 4. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “Public Testimony Guidelines” below):
- 5. **Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: December 6, 2023.**
- 6. **Chairperson’s Report:** Report by Planning Commission Chair.
- 7. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
- 8. **Approval of Minutes:** Approval of Draft Minutes from the special meeting on October 18, 2023.
- 9. **Future Agenda Items and Other Planning-Related Events:** None.

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

- 10. **Action:** **Public Hearing: Tentative Tract Map #8651**  
**Recommendation:** Hold a public hearing to consider Tentative Tract Map #8651 pursuant to BMC Section 21.16.047.  
**Written Materials:** Attached.  
**Presentation:** N/A.
- 11. **Discussion:** **Middle Housing Discussion**  
**Recommendation:** Receive a report, take public comment, and provide feedback on proposed zoning changes to encourage middle housing in low-density residential districts (R-1, R-2, R-2A and MU-R).  
**Written Materials:** Attached.  
**Presentation:** N/A
- 12. **Action:** **Meeting Start and End Time**  
**Recommendation:** Vote on a meeting start time and consider a vote on an end time.  
**Written Materials:** N/A  
**Presentation:** N/A
- 13. **Action:** **2024 Planning Commission Calendar**

- Recommendation:** Discuss and adopt 2024 Planning Commission meeting schedule.
- Written Materials:** Attached.
- Presentation:** N/A

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

**Information Items:**

- *San Pablo Specific Plan Information Memo*, dated November 1, 2023 (attached). The staff memorandum provides an overview and update of the San Pablo Avenue specific planning process and includes a summary of existing condition analysis and outreach efforts.
- *Tuesday, October 10, 2023 – Second Reading of Amendments to Title 23 Relating to Accessory Dwelling Units (ADUs) and Repeal of Chapter 12.99 to Conform to State Law and Respond to Guidance from the California Department of Housing and Community Development (Continued from September 19, 2023)*, <https://berkeleyca.gov/sites/default/files/city-council-meetings/2023-10-03%20Agenda%20Packet%20-%20Council%20%28WEB%29.pdf>

**Communications:**

- *General*

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

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

**ADJOURNMENT**

**Meeting Procedures**

**Public Testimony Guidelines:**

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

**Consent Calendar Guidelines:**

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

Chairperson, and the item will be pulled from the Consent Calendar for public comment and discussion prior to action.

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

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

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

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

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

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

***Meeting Access:*** This meeting is being held in a wheelchair accessible location. To request a disability-related

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

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



34 **Information Items:** None.

35 **Communications:**

- 36 • General.
- 37 • BART.

38 **Late Communications:**

- 39 • Supplemental Packet One.
- 40 • Supplemental Packet Two.

41 **6. CHAIR REPORT:**

- 42 • None.

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

- 45
- 46 • None.

47 **8. APPROVAL OF MINUTES:**

48 Motion/Second/Carried (Moore/Vincent) to approve the Planning Commission Meeting  
49 Minutes from October 4, 2023.  
50  
51 Ayes: Vincent, Moore, Oatfield, Mikiten, Marthinsen, Twu, Hauser. Noes: None. Abstain:  
52 Sanderson. Absent: Mikiten. (7-0-1-1)

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

- 55 • None.
- 56

57 **AGENDA ITEMS**

58 **10. Action: Public Hearing: North Berkeley BART Objective Design Standards (ODS)**

59 Principal Planner Alisa Shen and Chris Sensenig, Senior Associate with Raimi + Associates,  
60 presented the draft Objective Design Standards for the North Berkeley BART Station Project.  
61 Public comment was taken, the draft objective design standards were discussed, and a  
62 recommendation to City Council was made.

63  
64 Motion/Second/Carried (Vincent/Moore) to close the public hearing at 7:36pm.  
65  
66 Ayes: Sanderson, Vincent, Moore, Oatfield, Mikiten, Marthinsen, Twu, Hauser, Ghosh. Noes:  
67 None. Abstain: None. Absent: None. (9-0-0-0)

68

69 **Public Comments: 20**

70 Motion/Second/Carried (Oatfield/Twu) to recommend adoption of the draft objective design  
71 standards, with the following modifications:

72  
73 1. To integrate the requests made by the North Berkeley Housing Partners in their letter to the  
74 Planning Commission, dated October 13, 2023, included in Supplemental Communications  
75 #1, which are summarized as follows:

- 76
- 77 i. Reduce required setbacks to the minimum required by zoning of five feet.
- 78 ii. Apply rules for projections allowed on Sacramento Street to Virginia Street.
- 79 iii. Simplify major breaks by increasing maximum primary facade length to 250' for Delaware,  
80 Acton and Virginia streets; eliminating maximum secondary facade length; only applying  
81 Section 2.2.3 Major Breaks to facades greater than 200' in length; and eliminating Major  
82 Breaks in secondary facades.
- 83 iv. Increase the 65 percent limit for a single material to 80 percent and apply the percentage  
84 to all building exteriors as a whole.
- 85 v. Remove the requirement that panel systems shall not have exposed fasteners.
- 86 vi. Eliminate utility/refuse/loading access requirements.

87  
88 2. Add: "Facades that have ornament on at least 5% of the wall shall not be required to have  
89 major or minor breaks."; and  
90 3. Add: "Facades that have ornament on at least 5% of the wall may exceed the 65% maximum  
91 for one material."

92  
93 at 8:50pm.

94  
95 Ayes: Sanderson, Vincent, Moore, Oatfield, Marthinsen, Twu, Hauser, Ghosh. Noes: Mikiten.  
96 Abstain: None. Absent: None. (8-1-0-0)

97  
98 Motion/Second/Carried (Vincent/Moore) to adjourn the meeting at 8:51pm.

99  
100 Ayes: Sanderson, Vincent, Moore, Oatfield, Mikiten, Marthinsen, Twu, Hauser, Ghosh. Noes:  
101 None. Abstain: None. Absent: None. (9-0-0-0)

102  
103 **Members in the public in attendance: 43**

104 **Public Speakers: 20**

105 **Length of the meeting: 3 hr 16 minutes**





**Planning and Development Department**  
Land Use Planning Division

## STAFF REPORT

DATE: November 1, 2023  
TO: Members of the Planning Commission  
FROM: Brian Garvey, Assistant Planner  
SUBJECT: Public Hearing: Tentative Tract Map for 2403-07 San Pablo Avenue

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### RECOMMENDATION:

Hold Public Hearing to approve Tentative Map #8651, and recommend that the City Council review and certify the map pursuant to Berkeley Municipal Code (BMC) Section 21.16.047, subject to the attached Findings and Conditions (see Attachment 1) and consistent with Berkeley's Tentative Maps Ordinance (BMC 21.16), Subdivision Map Act, and General Plan.

### BACKGROUND

Tentative Map #8651 would convert the sole ownership of the entire property into individual units at 2403-07 San Pablo Avenue. The proposed project includes 36 dwelling units with a total of 82 beds. The project includes 603 square feet of commercial space for one tenant space on the ground floor. Use Permit ZP2021-0220 for the development project was approved by Zoning Adjustments Board (ZAB) on March 30, 2023. A Use Permit Modification under ZP2023-0103 to exceed parking maximum from 19 to 24 spaces is scheduled for consideration by ZAB on October 26, 2023. The subject lot includes bicycle storage, parking for 19 vehicles, and 10,199 square feet of usable open space.

### I. Application Basics

#### A. Table 1: Chronology of Subdivision Application:

August 21, 2023	Map Application submitted.
September 13, 2023	Map Application considered complete.
November 2, 2023	Subdivision Map Act deadline (50 days from complete)
November 1, 2023	Planning Commission hearing

**B. CEQA Determination:**

Construction of the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15332 of the CEQA Guidelines (“Infill Development”). Approval of the Tentative Map is also categorically exempt pursuant to Section 15301 (“Existing Facilities”) of the CEQA Guidelines which considers the operations and permitting of existing facilities involving no expansion of use beyond prior approvals.

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

**C. Parties Involved:**

Applicant: Melinda Thomas, 1646 N. California Blvd, Suite 400, Walnut Creek, CA  
Property Owner: Danny Milman, 116 NE 6<sup>th</sup> Avenue, Site 400 Portland, OR 97232

**II. Project Description**

On October 26, 2023, ZAB found the project at 2403-07 San Pablo Avenue consistent with the 2002 General Plan, the goals and policies of the West Berkeley Commercial (C-W) District, and State Density Bonus Law. ZAB (approved) Use Permit #ZP2021-0020 to construct a four story, mixed-use building with 36 dwelling units, 603 square feet of commercial space, 10,199 square feet of usable open space, 36 bicycle parking spaces, and 19 vehicular parking spaces. As noted above, a Use Permit Modification under ZP2023-0103 to exceed parking maximum from 19 to 24 spaces is scheduled for consideration by ZAB on October 26, 2023.

**III. Analysis**

**A. Subdivision Map Act Consistency:**

The Public Works Department has reviewed the form and content of the Tentative Tract Map, and has verified that it contains the content required by the Subdivision Map Act, including the subdivision number, the legal address of the legal owner or subdivider, sufficient legal description to define the boundary of the proposed subdivision, the location, pavement and right of way width, grade and name of existing streets or highways, the widths, location, and identity of all existing easements. The Public Works Department has determined that the Tentative Tract Map is suitable for review by the Planning Commission.

**B. Tentative Maps Ordinance (BMC Chapter 21.16) Consistency:**

The Planning Commission may approve, conditionally approve, or deny the tentative map in accordance with Berkeley Municipal Code (BMC) Section 21.16.047. According to this section of the Code, the Planning Commission shall deny approval

of the tentative map if it can make any of the following findings from BMC Section 21.16.047.A through 21.06.047.G. Staff analysis relating to whether the findings can be made follow.

- A. That the proposed map is not consistent with the applicable general and specific plans.*
- B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.*
- C. The site is not physically suitable for the proposed density of development.*

Staff Analysis: The subject property and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance, and the density was found to be physically appropriate for the site and consistent with applicable zoning regulations, in conjunction with the Zoning Permits issued by the Zoning Adjustments Board on October 26, 2023. Therefore, Staff does not believe that either Findings A, B or C can be made.

- D. That the design of the subdivision or the type of the improvements is likely to cause environmental damage or substantially and avoidably injure fish, or wildlife, or their habitat.*
- E. That the design of the subdivision or the type improvements is likely to cause serious public health problems.*

Staff Analysis: The potential for substantial environmental damage, or harm to fish and wildlife, or their habitat, or the likelihood of public health problems was evaluated when the Use Permits for the project were approved by the ZAB in order to determine whether any of the exceptions to the CEQA Exemption for in-fill development were present. No potential environmental or public health impacts were found. Staff does not believe that either Findings D or E can be made.

- F. That conflicts with existing public access easements, in accordance with Section 6674(g), of the Subdivision Map Act, which states: "That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision."*

Staff Analysis: The City of Berkeley Public Works department has verified that the proposed Subdivision will not conflict with any easements of record, or with any easements established by judgment of a court. Staff does not believe that Finding F can be made.

*G. That the design of the subdivision does not provide, to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.*

Staff Analysis: Subdivision of the project into condominiums will not alter passive or natural heating or cooling opportunities since it is limited to the subdivision of existing multiple family residences. Staff does not believe that Finding G can be made.

#### **IV. Public Notice/Comment**

BMC Section 21.16.045 requires public notice. Notice was provided as follows:

- Published in the Berkeley Voice on **October 20, 2023**;
- Posted at the subject property on **October 23, 2023**; and
- Mailed to the applicant and owner of the subject property, and to owners and occupants of properties abutting upon or confronting San Pablo Avenue and Ashby Avenue on **October 23, 2023**.

At the time of the writing of this report, there has been no public comment received.

#### **DISCUSSION AND NEXT STEPS**

After reviewing report, Planning Commission will hold a public hearing, receive public comment, and through a vote, make a recommendation to City Council on Tentative Map #8651.

#### **ATTACHMENTS**

1. Findings and Conditions
2. Tentative Tract Map #8651
3. Condominium Plans for Tentative Map #8651
4. Notice of Public Hearing

## ATTACHMENT 1

### FINDINGS AND CONDITIONS

NOVEMBER 1, 2023

# 2403-07 SAN PABLO AVENUE

**TENTATIVE TRACT MAP #8651 TO CONSTRUCT A FOUR-STORY, MIXED-USE BUILDING WITH 36 DWELLING UNITS (INCLUDING THREE VERY LOW-INCOME UNITS), 603 SQUARE FEET OF COMMERCIAL SPACE, 10,199 SQUARE FEET OF USABLE OPEN SPACE, 36 BICYCLE PARKING SPACES AND 19 VEHICULAR PARKING SPACES.**

#### CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”) and the approval of the Tentative Map is also categorically exempt pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines which considers the operations and permitting of existing facilities involving no expansion of use beyond prior approvals.

Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

#### TENTATIVE MAP FINDINGS

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2. Pursuant to Berkeley Municipal Code Section 21.16.047, the Planning Commission cannot make any of the seven findings for denial of the tentative map for the following reasons:
  - A. The proposed Tentative Tract Map #8651 is consistent with the applicable General Plan policies because:
    1. The proposed Tentative Map is consistent with Policy LU-3 Infill Development. It exemplifies an appropriate infill, mixed-use development for its particular location in the West Berkeley Commercial (C-W) District.
    2. The project is consistent with Policy H-32 Regional Housing Needs, as it will convert the sole ownership of the entire property into 78 dwelling units including seven deed-

restricted affordable units and commercial space for one tenant, to meet the City's share of regional housing needs.

- B. The design and development of the project proposed to be subdivided is consistent with the City of Berkeley's General Plan because:
1. The project is consistent with Action A of Policy LU-7 Neighborhood Quality of Life. It encourages sensitive infill residential development in a manner that is consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
  2. The project is consistent with Policy LU-3 Infill Development and Policy H-33 Regional Housing Needs because it is architecturally compatible in design and scale with land uses along San Pablo Avenue and within the surrounding neighborhood.
- C. The project site and proposed improvements were evaluated and found to be consistent with the General Plan and Zoning Ordinance, and the density was found to be physically suitable for the site and consistent with applicable zoning regulations, in conjunction with the Zoning Permits issued by the Zoning Adjustments Board on October 26, 2023.
- D. The project will not have adverse environmental effects or substantially and avoidably injure fish or wildlife in their habitat since it is limited to the subdivision of condominium units in a building that has been evaluated to determine whether any of the exceptions to the CEQA Exemption for in-fill development relating to environmental damage or harm to fish and wildlife or their habitat, and none were found.
- E. The design of the subdivision and the proposed improvements will not likely cause serious health problems.
- F. The project will not conflict with any public access easements, as determined pursuant to a review by the Berkeley Public Works Department.
- G. The project will not alter passive or natural heating or cooling opportunities because it was designed to minimize solar access impacts and minimize detrimental shadows to existing buildings adjacent to the property, as evaluated in its use permit approvals for ZP2023-0103.

## STANDARD CONDITIONS

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1. The Final Map shall be submitted for certification and shall be recorded in compliance with the *Berkeley Municipal Code*, Title 21, and with the *Subdivision Map Act* of the State of California.
2. A copy of the Conditions, Covenants, and Restrictions shall be filed with the Planning and Development Department prior to approval of the Final Map.

3. Prior to approval of the Final Tract Map, an Affordable Housing Agreement shall be entered into with the City's Housing Department that specifies the number, location, and pricing of units that will be affordable in order to remain compliant with Berkeley Municipal Code 23C.12 [Inclusionary Housing Requirements] and California Government Code 65915-65918 [Density Bonuses and Other Incentives] regulations applied when project Use Permits were issued.
4. The *Standard conditions of approval for all subdivisions, new condominiums and commercial condominium conversions within the City of Berkeley*, dated January 1994, applies and shall be satisfied prior to approval of the Final Map. (Attachment 1, Exhibit A)

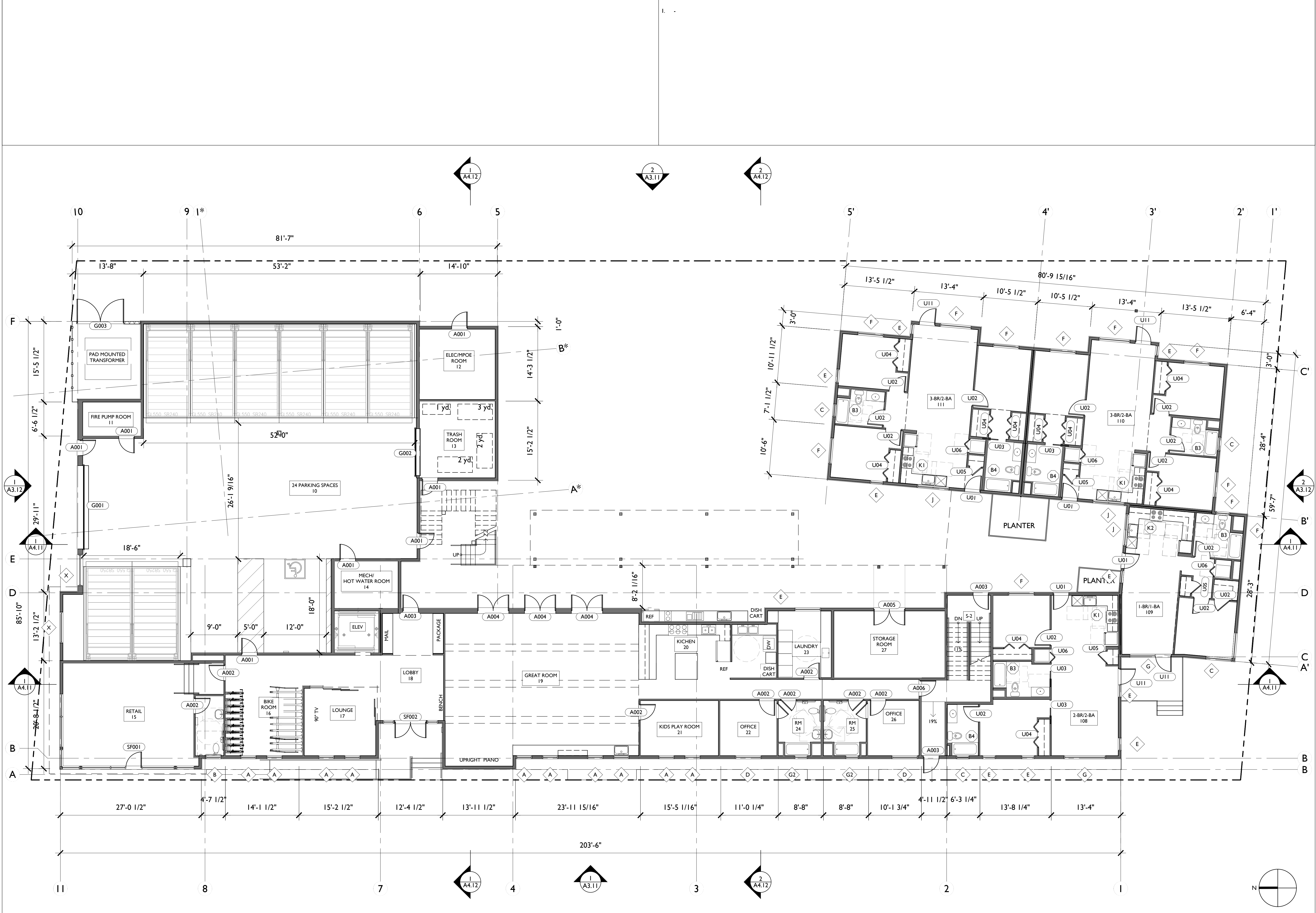






LEGEND

KEYNOTES #  
 1. .



**GUNKEL ARCHITECTURE**  
 1295 59TH STREET  
 EMERYVILLE CA 94608  
 GUNKELARCHITECTURE.COM  
 PHONE: (510) 984 - 1112

**BERKELEY MOSHAV**  
 2403 SAN PABLO AVE  
 BERKELEY, CA

SET TYPE AND DATE		
NAME	DATE	
DESIGN DEVELOPMENT SUBMITTAL-PROGRESS	10/20/22	
DESIGN DEVELOPMENT SUBMITTAL	02/17/23	

GROUND FLOOR PLAN

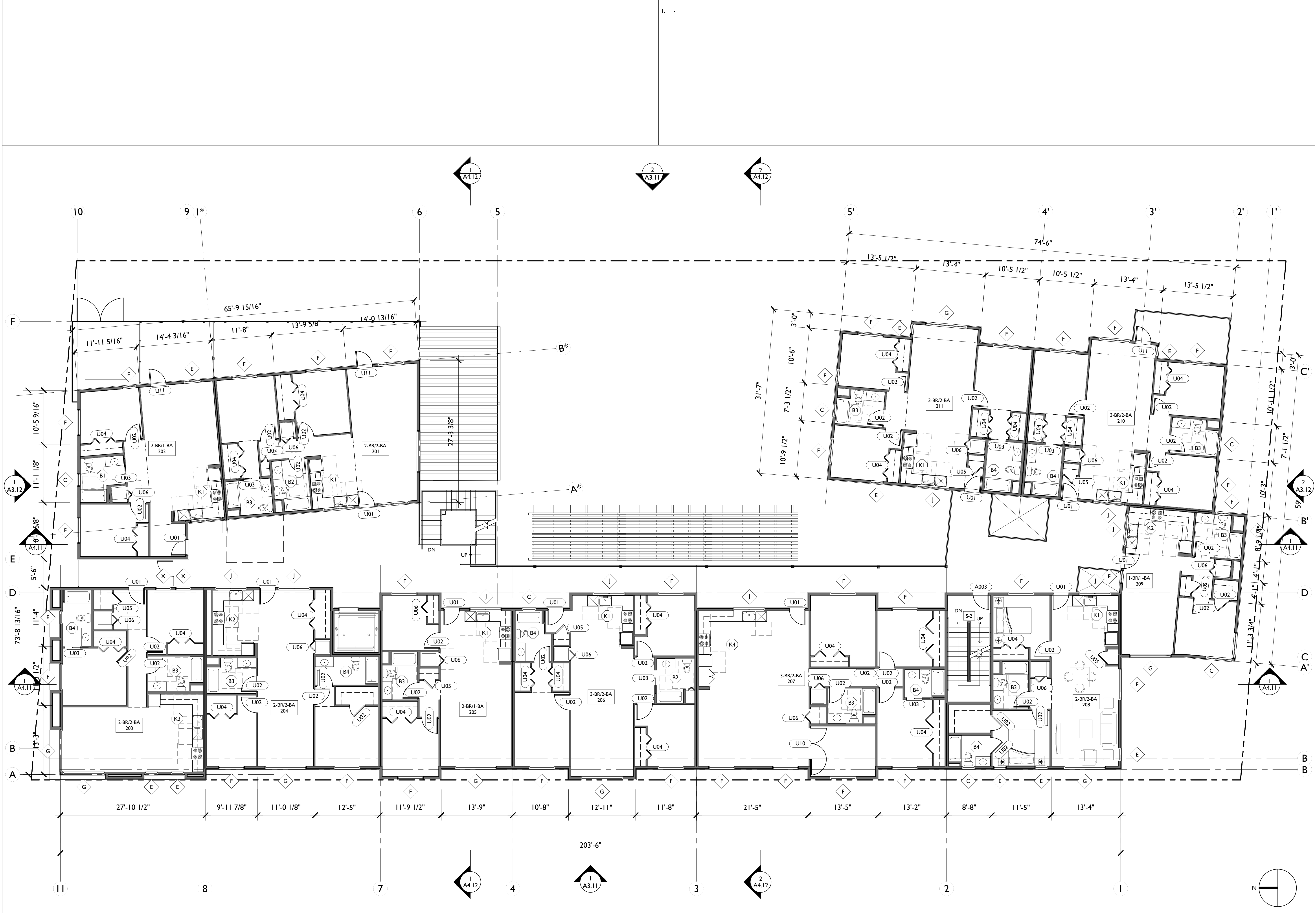
**A2.1**

I GROUND FLOOR PLAN

SCALE  
 1/8" = 1'-0"

LEGEND

KEYNOTES #  
 1. .



**GUNKEL ARCHITECTURE**  
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 GUNKELARCHITECTURE.COM  
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**BERKELEY MOSHAV**  
 2403 SAN PABLO AVE  
 BERKELEY, CA

SET TYPE AND DATE		
NAME	DATE	
DESIGN DEVELOPMENT SUBMITTAL-PROGRESS	10/20/22	
DESIGN DEVELOPMENT SUBMITTAL	02/17/23	

SECOND FLOOR PLAN

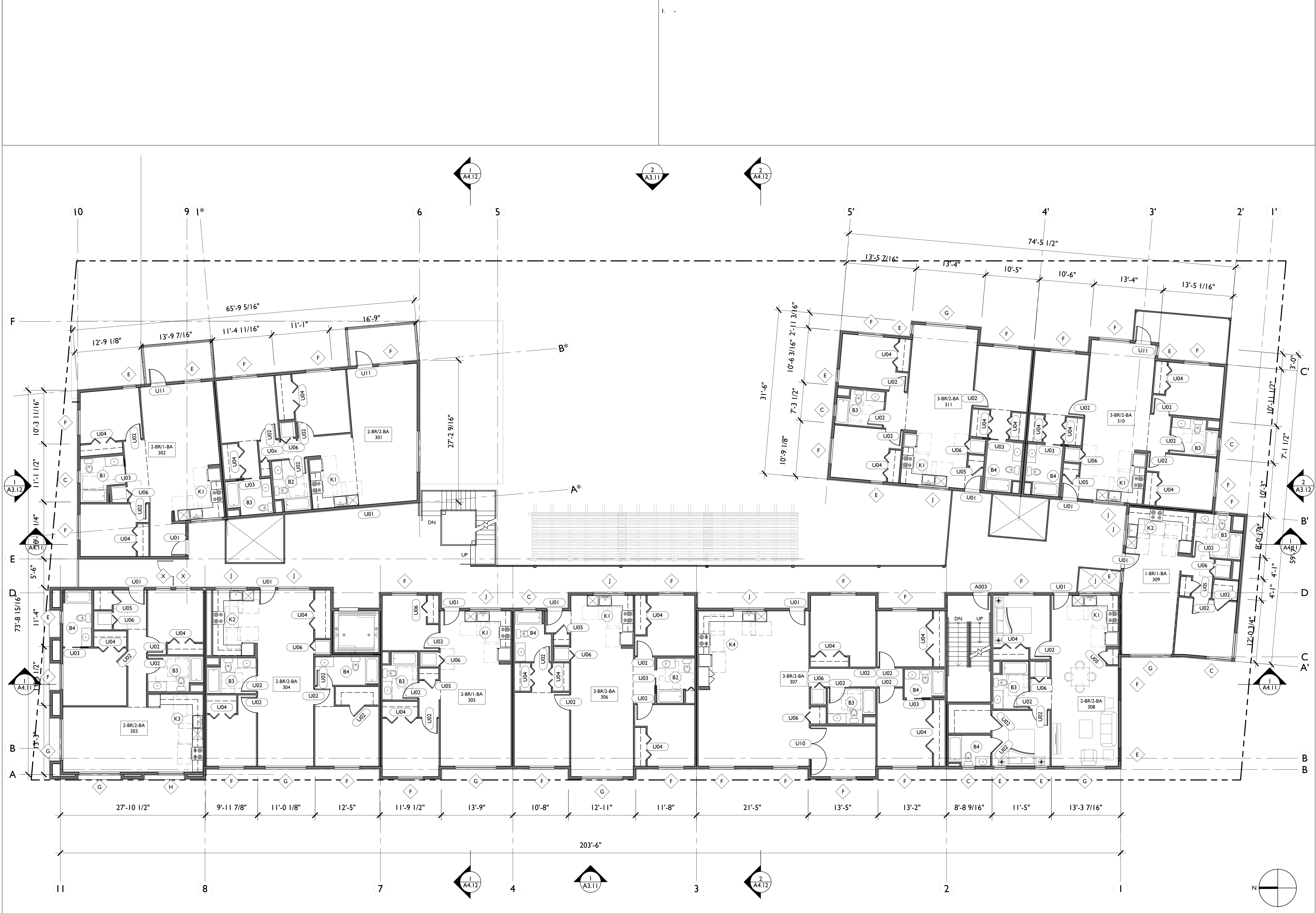
**A2.2**

I SECOND FLOOR PLAN

SCALE  
 1/8" = 1'-0"

LEGEND

KEYNOTES #  
 1. .



GUNKEL ARCHITECTURE  
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**BERKELEY MOSHAV**  
 2403 SAN PABLO AVE  
 BERKELEY, CA

SET TYPE AND DATE		
NAME	DATE	
DESIGN DEVELOPMENT SUBMITTAL-PROGRESS	10/20/22	
DESIGN DEVELOPMENT SUBMITTAL	02/17/23	

THIRD FLOOR PLAN

**A2.3**

I THIRD FLOOR PLAN

3/32" = 1'-0"

LEGEND

KEYNOTES #  
 1. .



**GUNKEL ARCHITECTURE**  
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**BERKELEY MOSHAV**  
 2403 SAN PABLO AVE  
 BERKELEY, CA

SET TYPE AND DATE		
NAME	DATE	
DESIGN DEVELOPMENT SUBMITTAL-PROGRESS	10/20/22	
DESIGN DEVELOPMENT SUBMITTAL	02/17/23	

FOURTH FLOOR PLAN

**A2.4**

I FOURTH FLOOR PLAN

3/32" = 1'-0"

**GUNKEL ARCHITECTURE**  
 1295 59TH STREET  
 EMERYVILLE CA 94608  
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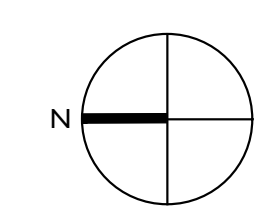
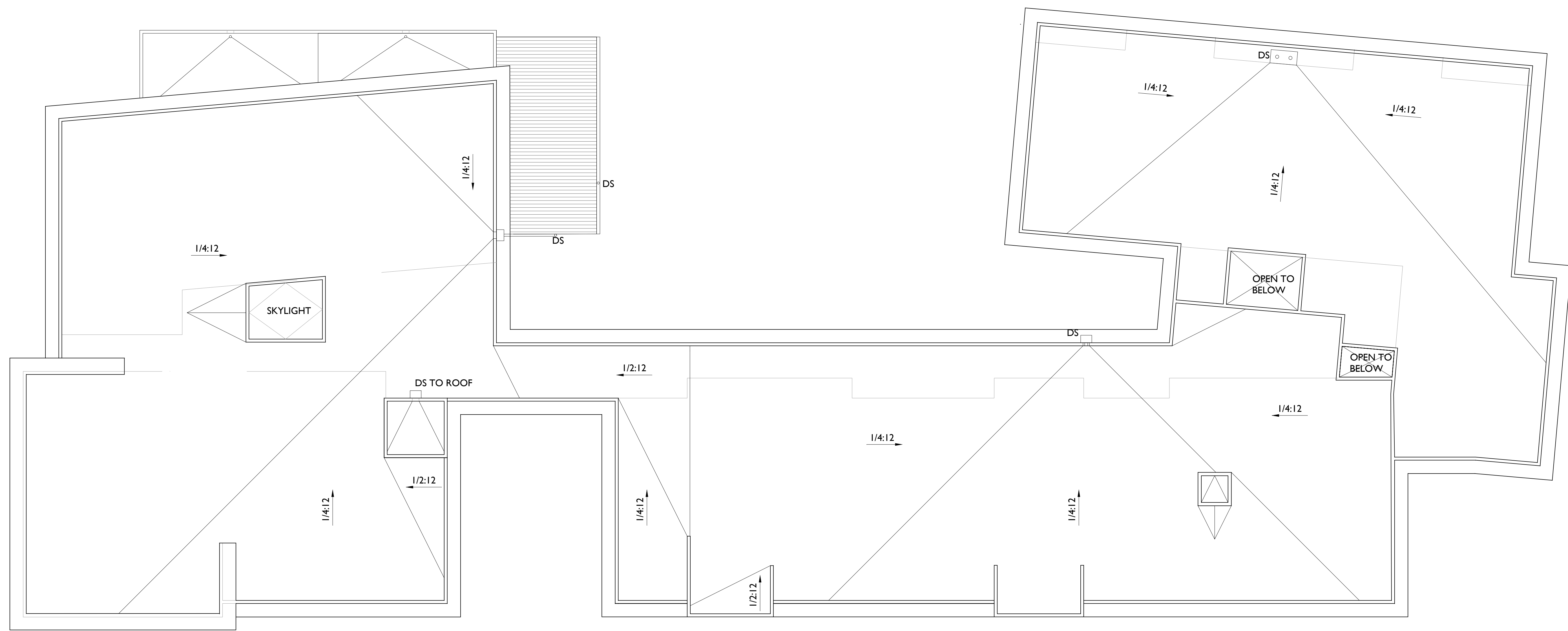
**BERKELEY MOSHAV**  
 2403 SAN PABLO AVE  
 BERKELEY, CA

**SET TYPE AND DATE**

NAME	DATE
DESIGN DEVELOPMENT SUBMITTAL-PROGRESS	10/20/22
DESIGN DEVELOPMENT SUBMITTAL	02/17/23

ROOF PLAN

**A2.5**





# PLANNING COMMISSION

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## Notice of Public Hearing

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### Wednesday, November 1, 2023

### Tentative Tract Map #8651 – 2403-07 San Pablo Avenue

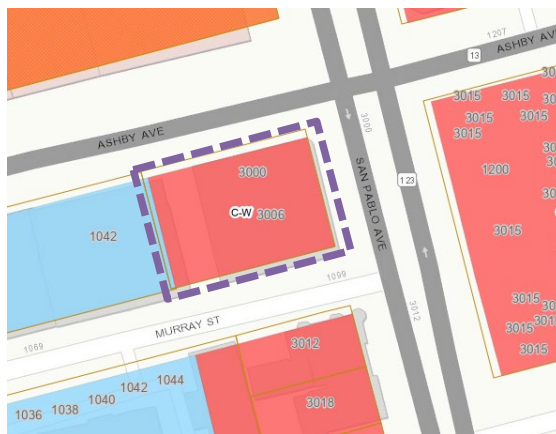
The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 21.16.047, on **Wednesday, November 1, 2023 at 5:30 p.m.** at the **North Berkeley Senior Center**, 1901 Hearst Ave, Berkeley (wheelchair accessible).

The agenda will be posted on the Planning Commission website (<https://berkeleyca.gov/your-government/boards-commissions/planning-commission>) no later than 5pm on Friday, October 27, 2023.

### PROJECT DESCRIPTION

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Tentative Tract Map #8651 would subdivide 36 residential condominium units and one commercial condominium unit within a four-story mixed-use building. The project would provide 603 square feet of commercial space, 10,199 square feet of usable open space, 36 long-term bicycle parking spaces, and 24 vehicular parking spaces. The development project was approved by the Zoning Adjustments Board (ZAB) on March 30, 2023 and a modification of the project will go before ZAB on October 26, 2023.



**PROJECT APPLICANT:** Melinda Thomas, 1646 N. California Blvd, Suite 400, Walnut Creek, CA

### LOCATION:

2403-07 San Pablo Ave, Berkeley CA, 94702

The zoning map is available online:

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

**ENVIRONMENTAL REVIEW STATUS:** Construction of the project is categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”), and approval of the Tentative Map is also categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”), which involves the operation and permitting of existing facilities involving no expansion of use beyond prior approvals.

### PUBLIC COMMENT & FURTHER INFORMATION

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

Tentative Tract Map – 2403-07 San Pablo Ave  
Page 2 of 2

NOTICE OF PUBLIC HEARING  
**Posted on October 20, 2023**

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Zoe Covello  
Planning Commission Clerk  
Email: [PlanningPC@cityofberkeley.info](mailto:PlanningPC@cityofberkeley.info)

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

Correspondence received by **12 pm on Tuesday, April 25, 2023** will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12pm on Monday, May 1, 2023** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by **5pm one day before this public hearing**, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received after 5pm one day before this public hearing will be saved as part of the public record.

Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Planning Commission Secretary just before, or at the beginning, of the meeting.

### **COMMUNICATION ACCESS**

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

### **FURTHER INFORMATION**

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Questions should be directed to Brian Garvey, at (510) 981-7424 or [bgarvey@cityofberkeley.info](mailto:bgarvey@cityofberkeley.info).

Current and past agendas are available on the City of Berkeley website at: <https://berkeleyca.gov/your-government/boards-commissions/planning-commission>.





**Planning and Development Department**

Land Use Planning Division

DATE: November 1, 2023  
TO: Members of the Planning Commission  
FROM: Justin Horner, Associate Planner  
SUBJECT: Middle Housing Discussion

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## **INTRODUCTION**

Pursuant to City Council referrals and Program 29—Middle Housing, adopted as part of the City’s *2023-2031 Housing Element Update* (“the Housing Element”), the Planning Commission is asked to consider:

1. Objective residential development standards (“zoning changes”) to encourage the development of “middle housing” in the R-1, R-1A, R-2, R-2A and MU-R zoning districts (“low-density residential districts”);
2. Amendments to Berkeley Municipal Code (BMC) Chapter 23.326 Demolition and Dwelling Unit Control (“Demolition Ordinance”) to permit by-right demolition of single-family homes for projects that add density and have not been occupied by tenants within the past five years and in which Ellis Act eviction did not occur within the preceding five years; and
3. Changes to parking maximums for middle housing.

The intent of middle housing policies is to implement the City Council’s direction to eliminate exclusionary zoning and encourage duplexes, triplexes/fourplexes, courtyard apartments and other small-scale multi-family housing types that have historically appeared in Berkeley neighborhoods primarily comprised of single-family homes.

Planning Commission is asked to receive a report and provide feedback on the proposed zoning policy changes. Subsequent to this discussion and further community outreach, staff plans return to present a draft ordinance to the Planning Commission in Spring 2024 for public hearing and recommendation to City Council.

## **BACKGROUND**

### **City Council Referrals**

The proposed zoning changes are presented in response to the City Council referrals and resolutions summarized in Table 1:

**Table 1. City Council Referrals and Resolutions**

<p>Housing Accountability Act (2017)</p>	<p>On July 11, 2017, the City Council adopted a referral regarding the State Housing Accountability Act (Government Code Section 65589.5) and requested research into a set of objective zoning standards for new development projects in the following four areas:                  Density and/or building intensity;                  Public health and safety standards;                  Design review standards; and                  Views, shadows, and other impacts that underlie detriment findings.</p>
<p><i>Missing Middle Housing (2019)</i></p>	<p>On April 23, 2019 the City Council directed the City Manager to examine methods to provide for a broader range of housing types in areas of Berkeley with access to parks, schools, employment, transit, and other services. The Council directed the City Manager to explore opportunities to allow “missing middle” housing types in the R-1, R-1A, R-2, and R-2A zoning districts.</p>
<p><i>Eliminating Exclusionary Zoning (2021)</i></p>	<p>On February 23, 2021 the City Council adopted a resolution declaring the intent of the Council to allow multi-family housing in residential neighborhoods throughout Berkeley, and to allow for small-scale multi-family development in the R-1, R-1A, R-2, and R-2A zoning districts. As part of this effort, the resolution calls for the city to also:                  Protect public safety in all neighborhoods;                  Allow for new housing that reflects the existing mix of multi-family housing types within neighborhoods;                  Provide strong anti-displacement and tenant protections;                  Accommodate families in new and rehabilitated multi-family housing developments;                  Ensure that new development does not demolish any rent-controlled or below market-rate housing;                  Explore incentives for projects to contribute to the need for affordable housing; and                  Carry out a robust community process when developing zoning changes.</p>

## Housing Element

The Housing Element includes Program 29—Middle Housing, which calls for the City to amend “the Zoning Code and applicable development standards to encourage and promote a mix of dwelling types and sizes, particularly infill and converted existing housing in high resource areas.” Program 29 includes three specific actions:

1. Amend the Affordable Housing Fee schedule to introduce a sliding scale for projects that are less than 12,000 square feet in size.

**Status:** This task has been completed. The sliding scale is based on “residential unit floor area,”<sup>1</sup> and includes an exemption for projects with 5,000 square feet or less of residential floor area.

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<sup>1</sup> See definition: [BMC Section 23.328.020\(J\)](#)

2. Amend the Berkeley Municipal Code to allow multi-unit development on one lot in lower density residential districts;

Status: This task is a subject of this report and Planning Commission meeting.

3. Consider amending the Demolition Ordinance to provide a by-right pathway for demolition of single-family homes for projects that add density, with provisions to protect tenants.

Status: This task is a subject of this report and Planning Commission meeting.<sup>2</sup>

### Previous Planning Commission and City Council Discussion

As part of the planning and engagement process for the Housing Element Update, staff received feedback pertinent to the proposed zoning changes at three prior Planning Commission and City Council meetings.

At the March 15, 2022 City Council worksession,<sup>3</sup> Councilmembers identified the following considerations:

- Permit **higher density** equitably throughout the City, including in high resource, high income neighborhoods, and consider provisions for the Hillside Overlay.
- Create an incentive for **adaptive reuse and smaller, more affordable units**, including allowing for more than four units in lower density districts.
- Consider **treating Residential zones similarly** and adopting the same standards for the R-1, R-1A, R-2 and R-2A districts (i.e., merging zoning districts).
- Embrace climate adaptation and resilience through local power generation, but **solar access should not be a barrier** to creating more housing.

At its June 1, 2022 meeting,<sup>4</sup> the Planning Commission received an informational report and provided feedback to staff on proposed zoning changes. At the meeting, commissioners identified the following considerations:

- Encourage **smaller unit sizes** and consider **eliminating minimum lot size** requirements.
- **Reduce minimum required open space dimensions.** Currently a minimum width and length of 10 feet is required, or a minimum of six feet for balconies.

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<sup>2</sup> Staff anticipates bringing forward a separate revised Demolition Ordinance for a public hearing at the Planning Commission in the Winter of 2023 that will not contain provisions for by-right demolition of single-family dwellings, which is being considered as part of this subsequent Middle Housing effort.

<sup>3</sup> <https://berkeleyca.gov/sites/default/files/2022-04/2022-03-15%20Item%2001%20Housing%20Element.pdf>

<sup>4</sup> [https://berkeleyca.gov/sites/default/files/documents/2022-06-01\\_PC\\_Item%209\\_linked%20.pdf](https://berkeleyca.gov/sites/default/files/documents/2022-06-01_PC_Item%209_linked%20.pdf)

On September 20, 2022,<sup>5</sup> the City Council held a worksession to review and discuss proposed zoning changes for middle housing and the Southside. At the meeting, the City Council identified the following additional considerations:

- Consider **potential speculation** and whether increasing development potential in these zones puts homeowners and families in competition with developers.
- **Incentivize more units** by increasing allowed densities while encouraging smaller units.

### **Outreach to City Councilmembers, Middle Housing Architects, and Community Groups**

Due to the prioritization of adopting the Housing Element and zoning amendments for the Southside Plan Area, accessory dwelling units, special needs housing, and bird safe buildings, neither the Planning Commission nor the City Council have discussed middle housing for more than a year. To restart this effort, staff conducted outreach in September and October of 2023 to City Councilmembers, Berkeley architects who specialize in middle housing, and community organizations.<sup>6</sup> These meetings provided opportunities to reintroduce the proposed zoning changes to important stakeholders and to receive updated feedback to inform the Planning Commission's discussion.

Feedback on individual development standards are mentioned below, as appropriate. The following general considerations are summarized:

*City Councilmembers.* Councilmembers support removing parcels in the Hillside Overlay (H) zoning district from this set of middle housing zoning changes, at least temporarily. The City is currently undertaking an emergency evacuation study and will be updating its Safety Element. The results of these efforts will inform any zoning change that would result in density increases in the Very High Fire Hazard Severity Zone. Opportunities to increase density in the Hillside Overlay are still available pursuant to SB 9.

*Missing Middle Architects.* Six local architects were consulted for their feedback on the proposed standards and their views on the feasibility of middle housing projects, generally. They indicated that there was a high demand for middle housing product types in Berkeley, especially for ownership units that are larger than 1,000 square feet and detached homes. In their experience, middle housing projects are most feasible on lots that are vacant or with a relatively low-value existing home, and exempt the City's Inclusionary Housing threshold (currently Residential Unit Floor Area of 5,000 square feet or less). On lots with an existing home that is retained, adding one to three units may be feasible, but it may be easier to add one or two ADUs. Projects with five or more

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<sup>5</sup> <https://berkeleyca.gov/sites/default/files/documents/2022-09-20%20WS%20Item%2001%20Residential%20Objective%20Standards.pdf>

<sup>6</sup> East Bay for Everyone (10/6/2023), Berkeley Neighborhoods Council (10/14/2023), and Berkeley Design Advocates (11/1/2023)

units will likely be uncommon, due to construction costs, code requirements, inclusionary zoning requirements, buyer preferences and typical lot sizes, among other factors.

**Community Groups.** Staff met with several East Bay and Berkeley community groups who provided feedback on the proposed standards and middle housing, generally.

On October 14, 2023, staff made a presentation to the Berkeley Neighborhoods Council. Attendees expressed concern that the proposed standards, which encourage more density, would lead to a diminishment of open space, increased demand for emergency response services and, through an increase in building and paving, contribute to the urban heat island effect.

Staff is scheduled to meet with the Berkeley Design Advocates on November 1, 2023. Their feedback will be included as part of the presentation to the Planning Commission at the meeting that evening.

## PROPOSED MIDDLE HOUSING ZONING CHANGES

Table 2 below provides a summary glance at the proposed standards, the general direction of the recommended changes and the policy rationale for each recommendation. Each standard is further discussed below and the specific development standard changes can be found in **Attachment 1**.

*Table 2. Summary of Proposed Standards*

Zoning Standard	Recommendation	Policy Goal
Permits and Levels of Discretion	Projects with 2 or more units can be approved with a ZC	Encourage housing development; Streamline process; Increase predictability of approval process; Match typical state law definition of multifamily.
Minimum and Maximum Densities	Set minimum and maximum densities expressed in units per acre	Encourage appropriate densities; Provide predictability; Maintain middle housing scale in low-density residential districts
Maximum Floor Area Ratio (FAR)	Set a maximum FAR that scales up as units increase	Maintain middle housing scale in low-density residential districts; Encourage unit sizes that are “affordable by design”; Comply with SB 478, signed into law by the Governor on September 28, 2021, which prohibits a local agency from imposing a FAR less than 1.0 on a housing project with 3 to 7 units, or less than 1.25 on a housing project with 8 to 10 units.
Minimum Open Space	Set requirement on a per 1,000 square feet basis, rather than per unit	Provide flexibility for varying middle housing typologies and unit sizes.
Maximum Height	Set a maximum height based on meeting objective	Streamline process; Increase predictability of approval process;

	standards for setbacks; Remove maximum stories standard	Maintain consistency for allowable heights in the rear.
Lot Coverage and Setbacks	Increase lot coverage as units increase, and reduce rear setbacks with reduced height	Encourage housing development
Building Separation	Remove building separation requirement based on stories	

Most of the proposed development standards are the same as those presented to the Planning Commission and City Council last year. Changes or revisions from last year’s proposal are specifically noted and explained under each standard.

**ZONING MAP, LAND USE, AND PERMIT AMENDMENTS**

The proposed zones and permit requirements have been revised since the Planning Commission and City Council discussed middle housing in 2022. Properties located in the Hillside Overlay would not be subject to these new permit requirements, but would rather continue to be subject to existing permit requirements (Multi-Unit Residential is Not Permitted in the R-1H and R-2H zoning districts, and is permitted with a Use Permit in the R-2AH zoning district).

*Current Policy:* Table 3 includes the current permit requirements in low-density residential districts for residential projects that include more than one dwelling unit. The proposed standards *do not change* any permit requirements for Single-Family, Group Living Accommodation or Mixed-Use Residential uses in these zones.

*Table 3. Current Permit Requirements*

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Two-family	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	AUP
Multi-Family	NP	NP	NP	UP(PH)	NP	UP(PH)	UP(PH)	AUP UP(PH)

*Proposed Standard:* The proposed zoning changes include three changes related to zoning districts, permits and levels of discretion:

1. *Zoning map amendment.* In response to City Council’s feedback, the proposed R-1A and R-2 standards are identical and can be merged to simplify zoning administration. Both R-1A and R-2 are currently in the same General Plan land use designation: Low Medium Density Residential. Accordingly, parcels currently zoned R-1A would be rezoned R-2.

2. *Land use amendment.* Combine two residential land use types (Two-Family and Multi-Family) into one (Multi-Unit Residential) for residential projects that include more than one dwelling unit.
3. *Required permit and level of discretion.* Permit Multi-Unit Residential projects that comply with all objective standards with a Zoning Certificate (ZC); no discretionary permit or public hearing would be required. Table 4 summarizes the recommendation:

*Table 4. Proposed Permit Requirements*

	R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
Multi-Unit Residential	ZC	NP	ZC	NP	ZC	UP(PH)	ZC

### MINIMUM AND MAXIMUM DENSITIES

The proposed density standards have been revised since the Planning Commission and City Council discussed middle housing last year. These changes include:

- Increasing the maximum densities for all of the lower density residential zoning districts outside of the Hillside Overlay in response to City Council and community feedback, which included:
  - Ensuring the ability to have at least four units in the R-1 zone on a 4,000 square foot lot;
  - Ensuring the ability to have five units on a 4,000 square foot lot in the R-2 zone, which could allow projects to utilize State Density Bonus and/or add affordable units; and
  - Ensuring the ability to have six units on a 4,000 square foot lot in the relatively higher-density R-2A and MU-R zoning districts.
- Removing properties in the Hillside Overlay from the new density standards. The values included for R-1H, R-2H and R-2AH in Table 5 reflect existing development standards. As noted above, zoning modifications for the Hillside Overlay should be informed by pending work on an evacuation study, an update to the General Plan Safety Element, and other work to inform wildfire mitigation measures.

*Current Policy:* The Berkeley Municipal Code does not include any minimum or maximum density standards for low-density residential zones that are expressed in “units per acre”. In the R-1, R-1A, R-2, and R-2A districts, density is limited by requirements for a “minimum lot size per unit” standard and by specific residential land use types (e.g. “Single-Family”, “Two-Family”).

*Proposed Standard:* Table 5 summarizes the proposed density standards expressed in units per acre, and includes an example of the maximum number of units that may result from each standard on a 4,000 square foot lot in each zone. The proposed density standards *do not include* any eligible Accessory Dwelling Units (ADUs)

permitted under the City’s ADU provisions.<sup>7</sup> There is no minimum density requirement for lots in the Hillside Overlay. Minimum densities would apply for new development on vacant lot or redevelopment and infill of existing nonvacant lots.

*Table 5. Proposed Density Standards*

	R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
Minimum Density (DU/acre)	10	0	10	0	20	0	20
Maximum Density (DU/acre)	40	20	50	20	60	55	60
Resulting units on a 4,000 square foot lot							
Minimum Units	1	0	1	0	2	0	2
Maximum Units	4	2	5	2	6	5	6

In interviews, missing middle architects noted that project densities would more likely be influenced by considerations unrelated to specific density standards, such as construction costs, code requirements, inclusionary zoning requirements, buyer preferences and typical lot sizes, among other factors. They also noted that projects that utilize State Density Bonus are typically feasible only with 11 units or more. To achieve an allowed density of 11 units, projects would need to be located on larger lots in the R-2A (6,300 square feet), MU-R (5,500 square feet), R-2 (8,800 square feet) and R-1 (11,000 square feet) zoning districts.

**MAXIMUM FLOOR AREA RATIO (FAR)**

The proposed FAR standards have been revised since the Planning Commission and City Council discussed middle housing last year. The changes include:

- The maximum FAR standard in the R-1 and R-2 zoning district for 3-7 units was increased to 1.2. During outreach, both missing middle architects and East Bay for Everyone encouraged FAR standards that would permit units of at least 1,200 square feet when a project includes four units on a 4,000 square foot lot. An FAR of 1.2 in these zones would make that more feasible.
- Properties located in the Hillside Overlay would not be subject to an FAR standard; no change from the existing development standards.

*Current Policy:* While an effective maximum FAR can be calculated based on existing standards for lot coverage and maximum number of stories, the Berkeley Municipal Code does not include a specific FAR standard in the R-1, R-1A, R-2, and R-2A. The

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<sup>7</sup> On a lot with one single-family dwelling: 1 ADU and 1 Junior ADU; on a lot with more than one detached dwelling: 1 ADU; on a lot with a duplex or attached multi-family dwelling: 2 ADUs and at least one 1 interior ADU, up to an additional 25% of existing units.



BMC does include a maximum 1.5 FAR in the MU-R district.

*Proposed Policy:* Table 6 summarizes the proposed maximum FAR standards. No FAR limit is applied if a project is subdividing existing habitable space to create additional dwelling units.

The City Council directed staff to incentivize more, smaller units; the goal to achieve both more housing units as well as less expensive units. In response, staff propose scaling the FAR to increase as the number of units increase on a site; that is, if a project includes more units, it can be larger. In addition, state law prohibits a local agency from imposing a FAR less than 1.0 on a housing project with 3 to 7 units, or less than 1.25 on a housing project with 8 to 10 units.

*Table 6. Proposed Maximum FAR Standards*

	R-1	R-2	R-2A	MU-R
1 unit and nonresidential	1.2	1.2	1.2	1.5
2 units	0.5	0.6	0.6	1.5
3-7 units	1.2	1.2	1.5	1.5
8 + units	1.5	1.5	1.75	1.75

### MINIMUM REQUIRED OPEN SPACE

The proposed open space standard has been revised since the Planning Commission and City Council discussed middle housing last year. Properties located in the Hillside Overlay would not be subject to the proposed open space standards and would continue to be evaluated under existing development standards (400 square feet per dwelling unit in the R-1H and R-2H zoning districts and 300 square feet per dwelling unit in the R-2AH zoning district).

*Current Policy:* Table 7 summarizes minimum open space requirements in low-density residential zones, on a per unit basis.

*Table 7. Required Open Space*

	R-1	R-1A	R-2	R-2A	MU-R
CURRENT: Per dwelling unit (square feet)	400			300	150
PROPOSED: Per 1,000 square feet of floor area (square feet)	150				

*Proposed Policy:* The proposed development standard would require 150 square feet of open space for every 1,000 square feet of floor area on a project site, in each of the lower density residential districts. Note that required open space is no longer based on the number of units, but on a project's total floor area. The proposed open space standard is designed to preserve the requirement to provide residents with usable open space permit while also providing for flexibility in how the open space is arranged and allocated on a lot that may include different housing configurations.

## MAXIMUM HEIGHT

The proposed height standard has been revised since the Planning Commission and City Council discussed middle housing last year to keep the Hillside Overlay as-is. The proposed zoning changes largely preserve existing height limits and apply objective height standards by removing discretionary processes to exceed allowable heights. The proposed standards also include provisions for lower maximum heights near the rear property line in consideration of potential impacts on neighboring properties.

*Current Policy:* The Berkeley Municipal Code generally limits average building heights for main buildings in most low-density residential districts to 28 feet and three stories, with a possible increase to 35 feet with an AUP. In the MU-R, the maximum height is 35 feet and 3 stories. Current policy also limits the height of residential additions to 14 feet, with a possible increase to 35 feet with an AUP. Accessory buildings and structures are permitted with a maximum average height of 24 feet, although portions of buildings located between 4 feet and 10 feet from a lot line are limited to a 12 foot maximum average height, and portions of buildings and structures less than four feet from a lot line are limited to a 10 foot maximum average height.

*Proposed Policy:* The proposed development standards for maximum building height include the following:

- The maximum *average* building height in low-density residential districts would be 28 feet, with a maximum height at any one point of 35 feet. This would accommodate three-story residential projects while controlling the overall bulk of a proposed project. The maximum height would be reduced to 22 feet within 15 feet of a rear property line;
- Maximum height would only be measured in feet and the limit on the maximum number of stories would be removed;
- Maximum height standards for main buildings and residential additions would be the same.

Properties located in the Hillside Overlay would not be subject to the proposed height standards and would continue to be evaluated under existing development standards. These include a maximum average height of 28 feet and three stories, with a possible increase to 35 feet with an AUP. Projects in the H overlay would *not* be limited to 22 feet in height within 15 feet of the rear property line, and height regulations unique to residential additions would be preserved.

## MAXIMUM LOT COVERAGE

The proposed lot coverage standards have been revised since the Planning Commission and City Council discussed middle housing last year to keep the Hillside Overlay as-is.

*Current Policy:* Table 7 summarizes existing maximum lot coverage requirements. Current requirements distinguish between interior and corner lots, and reduce maximum lot coverage for taller projects.

*Table 7. Current Maximum Lot Coverage Standards*

	R-1	R-1A	R-2	R-2A	MU-R
<b>Interior &amp; Through-Lots</b>					
1 story	40%	40%	45%	45%	100%
2 stories	40%	40%	40%	40%	100%
3 stories	40%	40%	35%	35%	100%
<b>Corner Lots</b>					
1 story	40%	50%	50%	50%	100%
2 stories	40%	45%	45%	45%	100%
3 stories	40%	45%	40%	40%	100%

*Proposed Policy:* The proposed development standards, summarized in Table 8:

- Increase maximum lot coverage in most low-density residential districts;
- Use the total number of units in a project as the controlling factor for the standard, instead of the number of stories; and
- Eliminate the distinction between interior/through lots and corner lots to simplify the standard.

*Table 8. Proposed Maximum Lot Coverage Standards*

	R-1	R-2	R-2A	MU-R
1-2 units & non-residential	40%	50%	50%	100%
3-7 units	50%	55%	55%	100%
8+ units	55%	55%	60%	100%

Properties located in the H overlay district would not be subject to the proposed lot coverage standards and would continue to be evaluated under existing development standards, which are included in Table 7, above.

**MINIMUM SETBACKS**

The proposed setback standards have been revised since the Planning Commission and City Council discussed middle housing last year to keep the Hillside Overlay standards as-is.

*Current Policy:* The Berkeley Municipal Code currently regulates four types of setbacks:

- Front and Rear Setbacks: Front and rear setbacks are 20 feet in the R-1, R-1H, R-1A, R-2 and R-2H zoning districts, and 15 feet in the R-2A and the R-2AH districts.

In the MU-R zoning district, lots adjacent to a non-residential district have no rear setback, unless they abut a street, in which case a 5 foot rear setback is required. A lot in the MU-R adjacent to a residential district must provide a rear setback of either 10 feet or 10 percent of the lot width, whichever is less.

- Interior Side Setbacks: Interior side setbacks are based on building height. The interior side setback is 4 feet at the first story for all low-density residential districts, except the MU-R. At the second story, the interior setback increases to 6 feet in the R-2, R-2H, R-2A, and R-2H districts. Interior side setbacks can be reduced to 3 feet (or 5 feet) with a ZC, as the specific setback distance and eligibility depend on the zoning district and the particular story of the building being measured.

In the MU-R district, lots adjacent to a residential district must provide an interior side setback of either 10 feet or 10 percent of the lot width, whichever is less. There are no other interior side setback requirements in the MU-R.

- Street Side Setbacks: Street side setbacks are 4 feet in the R-1, R-1H, and R-1A districts, 10 feet in the R-2 and R-2H districts, and vary by height in the R-2A and R-2AH districts (6 feet at first story, 8 feet at second story and 10 feet at third story).

In the MU-R district, lots adjacent to a non-residential district must provide a 5 foot street side setback. Lots adjacent to a residential district must provide a street side setback of either 10 feet or 10 percent of the lot width, whichever is less. There are no other street side setback requirements in the MU-R.

A Zoning Officer may approve an AUP to reduce the minimum setbacks in the H Overlay.

*Proposed Policy*: The proposed development standards include the following:

- Front Setbacks: Front setback standards would be reduced by 5 feet in the R-1 and R-2 zoning districts (from 20 feet to 15 feet), and the R-2A zoning district (from 15 feet to 10 feet). Projects could provide a smaller setback that is the average of the front setback(s) of adjacent structure(s), if that is less than the required setback.
- Rear Setbacks: The rear setback in the R-1, R-2, and R-2A zoning districts would be 4 feet; the MU-R would maintain its existing regulations. This is consistent with the required setbacks required for ADUs. As noted above, a building's maximum height is limited to 22 feet within 15 feet of the rear property line.
- Interior Side Setbacks: The interior side setback in the R-1, R-2, and R-2A zoning districts would be a consistent 4 feet regardless of height. The MU-R would maintain its existing regulations.

- **Street Side Setbacks:** Street side setbacks in the in the R-1, R-2, R-2A zoning districts would be a consistent 4 feet would be 4 feet. There would be no changes to street side setbacks in the MU-R.

Members of the Berkeley Neighborhoods Council expressed concern that reducing setbacks could impede emergency response and urged consultation with the Berkeley Fire Department before these standards are finalized. The Fire Department noted that a 5-foot rear and side setbacks would provide enough room to place ladders for accessing buildings during a fire or other emergency.

**BUILDING SEPARATION**

The proposed building separation standards have been revised since the Planning Commission and City Council discussed middle housing last year. The proposed standards would maintain the Hillside Overlay standards as-is, and reduce, but not eliminate, building separation standards in the R-1, R-2, and R-2A zoning districts.

*Current Policy:* Current building separation requirements are summarized in Table 9:

*Table 9. Current Building Separation Standards*

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
1 story (feet)	No min	No min	8	8	8	8	8	No min
2 stories (feet)	No min	No min	12	12	12	12	12	No min
3 stories (feet)	No min	No min	16	16	16	16	16	No min
Reduce with an AUP	--	--	AUP	AUP	AUP	AUP	AUP	--

*Proposed Policy:* The proposed development standards would create a 5-foot building separation requirement in the R-1, R-2, R-2A and MU-R zoning districts, consistent with the separation requirements recently adopted for ADUs, and summarized below in Table 10. Building and fire code requirements fire rating and separation would still apply. Members of the Berkeley Neighborhoods Council expressed concern that eliminating building separation standards could impede emergency response and urged consultation with the Berkeley Fire Department before these standards are finalized.

*Table 10. Proposed Building Separation Standards*

	R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
Building Separation (feet)	5	No changes. See Table 9	5	No changes. See Table 9	5	No changes. See Table 9	5

## **BY-RIGHT DEMOLITION OF SINGLE-FAMILY STRUCTURES**

The adopted Housing Element commits the City Council to consider permitting the demolition of single-family homes with a Zoning Certificate, with provisions to protect existing tenants, in cases where the proposed project would include a net increase in the number of dwelling units.

Any proposal to demolish a dwelling unit must comply with BMC Chapter 23.326- Demolition and Dwelling Unit Control (“the Demolition Ordinance” -- **Attachment 2**). The Demolition Ordinance includes the following:

- A Use Permit (UP(PH)) is required to demolish a single-family home. To approve a UP, the Zoning Adjustments Board must find that “eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley;” and
- Demolition of a single-family unit is not allowed if it was removed from the rental market under the Ellis Act during the preceding five years or if there have been verified cases of harassment or threatened or actual illegal eviction during the preceding three years.

At its meeting of February 2, 2023, the Planning Commission received a report from staff asking for a recommendation regarding amendments to the Demolition Ordinance. The impetus for these revisions was recent changes in state law that provide additional requirements for new housing development projects that involve the demolition of existing residential units. The 4x4 Joint Task Force Committee on Housing has recommended additional modifications to the Demolition Ordinance, related primarily to replacement unit requirements, tenant protections, and other technical amendments to bring the local ordinance into alignment with state law.

## **PARKING MAXIMUMS**

BMC Section 23.322.070—Off-Street Parking Maximums for Residential Development limits the amount of off-street parking that can be provided for new residential projects of two or more units within 0.25 miles of a major transit stop or transit corridor to one space for every two units. The parking maximum can be exceeded with a discretionary AUP.

Planning staff have noted a trend of smaller, middle housing-scale projects requesting AUPs to exceed the parking maximum, usually to a ratio of one space per unit. Project sponsors, as well as the middle housing architects interviewed as part of community outreach, note that the maximum parking standard discourages middle housing production as builders are concerned about selling or renting units, particularly those that are marketed to first-time homebuyers and families with children. The ZAB has been sympathetic to these concerns for middle housing-scale projects, and has regularly issued AUPs to permit more parking.

The Planning Commission is asked to consider possible revisions to parking maximums. Feedback from community outreach includes the following suggestions:

- Eliminating parking maximums for projects of 9 units or less;
- Adjusting the parking maximum to one space per unit for middle housing projects, with an added requirement that the spaces have chargers for electric vehicles.

### **ALTERNATIVES CONSIDERED**

*Unbundled Parking.* As part of community outreach, there was a suggestion to require unbundled parking in middle housing projects, particularly for projects that may be permitted to exceed parking maximums.

BMC Section 23.334.030—Transportation Demand Management Requirements states that projects that include ten or more dwelling units must lease or sell parking spaces separately from the rental and purchase of the dwelling units themselves. Middle housing projects would typically include fewer than ten units. In addition, given the relatively small numbers of dwelling units and parking spaces in each middle housing project, applying unbundled parking in these cases would be difficult to enforce and may complicate the marketability of units.

### **DISCUSSION**

The Planning Commission is asked to review the proposed development standards, and the suggested revisions to the Demolition Ordinance and parking maximums, and provide direction to staff for the purposes of preparing a Zoning Ordinance for Planning Commission consideration and recommendation.

### **ATTACHMENTS**

1. Middle Housing Development Standards Comparison Table
2. Demolition Ordinance

**ATTACHMENT 1. EXISTING AND PROPOSED DEVELOPMENT STANDARDS TABLES**

**Table 1. Existing Development Standards – Lower Density Residential Districts**

"-" = not applicable; P = Permitted AUP = Administrative Use Permit UPPH = Use Permit Public Hearing NP = Not Permitted		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Residential	Ltd. Two-Family Residential	Restricted Two-Family Residential	Restricted Multi-Family Residential	Mixed-Use Residential			
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP [1]
Two-Family		NP	NP	UPPH	UPPH	NP	UPPH	UPPH	AUP
Multi-Family		NP	NP	NP	UPPH	NP	UPPH	UPPH	AUP/ UPPH[7]
Group Living Accommodation		NP	NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	NP	UPPH	NP	UPPH	UPPH	UPPH
Live/Work		NP	NP	NP	NP	NP	NP	NP	AUP/ UPPH[10]
Max. ADUs		Varies [11]	1	Varies [11]	Varies [11]	1	Varies [11]	1	Varies [11]
Min. Lot Area (sf)	New Lots	5000	5000	5000	5000	5000	5000	5000	No Min.
	Min. Lot Width (ft)	-	-	-	-	-	-	-	40
	Per Unit	No Min.	No Min.	No Min.	2500	2500	1650	1650	1,250
	2 Units	-	-	4500	No Min.	No Min.	No Min.	No Min.	-
Max FAR		No Max.	No Max.	No Max.	No Max.	No Max.	-	-	1.5 [2]
Min. Open Space (sf)	Per Unit	400	400	400	400	400	300	300	150
	Live/Work	-	-	-	-	-	-	-	40
Max. Height, New Bldg. or Non-Res. Addition (ft)	Max. Avg. Height	28	28	28	28	28	28	28	-
	Max. Height w/AUP	35	35	35	35	35	35	35	35
	Increase w/AUP	-	No Max.	-	-	No Max.	-	No Max.	-
	Max. Avg. Height, Rear Main (ft)	-	-	22	-	-	-	-	-
	ADU	20	16	20	20	16	20	16	20
	Max. Height, Res./MU	-	-	-	-	-	-	-	35
	Max. Height, Live-Work	-	-	-	-	-	-	-	28
Max. Avg Height, Res. addition (ft)	Live/Work w/UP	-	-	-	-	-	-	-	35
		14	14	14	14	14	14	14	-
	w/AUP	35	35	35	35	35	35	35	-
Max. Stories, New Bldg. or Non-Res. Addition		3	3	3	3	3	3	3	3
Max. Stories, Rear Main		-	-	2	-	-	-	-	-
Max. Lot Coverage - Interior/Thru Lot (%)	1 Story	40	40	40	45	45	45	45	100
	2 Stories	40	40	40	40	40	40	40	100
	3 Stories	40	40	40	35	35	35	35	100
	Increase w/AUP	-	-	-	-	-	-	-	100
Max. Lot Coverage - Corner Lot (%)	1 Story	40	40	45	50	50	50	50	100
	2 Stories	40	40	45	45	45	45	45	100
	3 Stories	40	40	45	40	40	40	40	100
	Increase w/UPPH	-	-	-	-	-	-	-	-
Min. Setback, Front (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	Adjacent Non-Res. District	-	-	-	-	-	-	-	5
	Adjacent Res. District	-	-	-	-	-	-	-	10
	Reduce w/AUP	-	No Min.	-	-	No Min.	-	No Min.	No Min.
Min. Setback, Rear (ft)	1st-2nd Story	20	20	20	20	20	15	15	-
	3rd Story	20	20	20	20	20	15	15	-
	ADU	4	4	4	4	4	4	4	4
	Adjacent Non-Res. District	-	-	-	-	-	-	-	No Min./5 [8]
	Adjacent Res. District	-	-	-	-	-	-	-	10/10% [9]
	Reduce w/ZC	20% [3]	20% [3]	20% [3]	-	-	-	-	-
	Reduce w/AUP	-	-	12 [6]	-	-	-	-	-
Min. Setback, Interior Side (ft)	1st-2nd Story	4	4	4	4	4	4	4	-
	3rd Story	-	-	-	6	6	6	6	-
	1st-2nd Story w/ZC	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	3/10% [4]	-
	3rd Story w/ZC	3/10% [4]	3/10% [4]	3/10% [4]	5 [4]	5 [4]	5 [4]	5 [4]	-
	ADU	4	4	4	4	4	4	4	4
	Adjacent Non-Res. District	-	-	-	-	-	-	-	No Min.
	Adjacent Res. District	-	-	-	-	-	-	-	10/10% [9]
Min. Setback, Street Side (ft)	1st Story	4	4	4	10	10	6	6	-
	2nd Story	-	-	-	10	10	8	8	-
	3rd Story	-	-	-	10	10	10	10	-
	Adjacent Non-Res. District	-	-	-	-	-	-	-	5



"-" = not applicable; P = Permitted AUP = Administrative Use Permit UPPH = Use Permit Public Hearing NP = Not Permitted		R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
		Single-Family Residential	Ltd. Two-Family Residential	Restricted Two-Family Residential	Restricted Multi-Family Residential	Mixed-Use Residential I			
	Adjacent Res. District	-	-	-	-	-	-	-	10/10% [9]
Min. Setback, Interior/Street Rear Bldg. (ft)		-	-	6	-	-	-	-	-
Min. Building Separation (ft)	1st Story	No Min.	No Min.	8 [6]	8	8	8	8	No Min.
	2nd Story	No Min.	No Min.	12 [6]	12	12	12	12	No Min.
	3rd Story	No Min.	No Min.	16 [6]	16	16	16	16	No Min.
	Reduce w/UP	-	-	P (AUP)	P (AUP)	P (AUP)	P (AUP)	P (AUP)	-
Off-Street Parking (spaces per unit)	Min. Spaces	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.
	Min. Spaces, Roadway width < 26 ft	-	1	-	-	1	-	1	-
	Max. Spaces, 2+ DU, 0.25 from Transit Hub or Corridor	0.5	0.5	0.5	0.5	0.5	0.5	0.5	-
	Tandem Parking	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP	w/AUP
	Landscaped Buffer (ft)	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]	2/4 [5]
	Max. Driveway Width (ft)	20	20	20	20	20	20	20	20
Min. Long-Term Residential Bicycle Parking		1-4 Units: None 5+ Units: 1 per 3 bedrooms GLA: Greater of 2 or 1 per 2.5 bedrooms							
Min. Short-Term Residential Bicycle Parking		1-4 Units: None 5+ Units: Greater of 2 or 1 per 40 bedrooms GLA: Greater of 2 or 1 per 20 bedrooms							

[1] A Use Permit is required to establish a unit that is within 150 feet of an M or MM district; or a construction product manufacturing or primary product manufacturing use. [\[BMC 23.206.090\(B\)\(8\) MU-R Mixed Use-Residential District\]](#)

[2] If min 50% of floor area is Residential

[3] On a lot less than 100 ft deep, reduction of rear setback by 20% of lot depth with ZC

[4] On a lot width less than 40 ft, reduction of side setback by 10% of lot width of 3 ft., whichever is greater. Third story is 5 ft. for R-2, R-2A. Not permitted for rear main buildings in R-1A [\[BMC 23.304.030\(B\)\(2\) Setback Reductions\]](#)

[5] All paved areas for off-street parking must be separated from adjacent lot lines and the public right-of-way by a landscaped strip. 2 ft for 1-3 parking spaces; 4 ft for 4 or more parking spaces. [\(BMC 23.322.080\(H\) Landscape Buffers\)](#)

[6] R-1A Separation Standard based on building height, not by story.

[7] 3 to 4 units requires AUP, 5+ units requires UP(PH)

[8] Min 5 ft rear setback if rear of lot abuts a street

[9] 10 ft of 10% of lot width, whichever is less

[10] AUP if meets all development and parking requirements, less than 5,000 SF of GSF is added or changed, less than five live/work units are created, and a dwelling unit is not changed into a live/work unit; otherwise UP required.

[11] If on a lot with a duplex or attached multi-family dwelling, max 2 detached ADUs or up to 25% of the total number of existing units may be converted into ADUs, otherwise max 1 ADU if more than 1 detached dwelling unit on a lot. A maximum of 1 ADU or JADU is permitted in the R-1H, R-2H, and R-2AH.

**Table 2. Proposed Development Standards – Lower Density Residential Districts**

"-" = not applicable; P = Permitted AUP = Administrative Use Permit UPPH = Use Permit Public Hearing NP = Not Permitted		R-1	R-1H	R-2	R-2H	R-2A	R-2AH	MU-R
		Residential Multi-Unit 1		Residential Multi-Unit 2		Residential Multi-Unit 2A		Mixed-Use Residential
Single-Family		UPPH	UPPH	UPPH	UPPH	UPPH	UPPH	AUP [1]
Multi-Unit Residential		ZC	NP	ZC	NP	ZC	UPPH	ZC [1]
Group Living Accommodation		NP	NP	NP	NP	NP	NP	UPPH
Mixed-Use Residential		NP	NP	UPPH	NP	UPPH	UPPH	UPPH
Live/Work		NP	NP	NP	NP	NP	NP	ZC[1]
Min. Density (DU/acre) - Round to the nearest whole number		10	No Min.	10	No Min.	20	No Min.	20
Max. Density (DU/acre) – Round to the nearest whole number		40	20	50	20	60	55	60
Max. ADUs		Varies [5]	1	Varies [5]	1	Varies [5]	1	Varies [5]
Min. Lot Area (sf)	New Lots	5000	5000	5000	5000	5000	5000	No Min.
Max. FAR	1 Unit and Non-Res. Uses	1.2	No max.	1.2	No max	1.2	--	1.5
	2 Units	0.5	--	0.6	--	0.6	--	1.5
	3-7 Units	1.2	--	1.2	--	1.5	--	1.5
	8+ Units	1.5	--	1.25	--	1.75	--	1.75
Min. Open Space (sf)	Per 1,000 sf Floor Area	150	No changes See Table 1	150	No changes See Table 1	150	No changes See Table 1	150
Max. Height, New Bldg. or Non-Res. Addition (ft)	Max. Avg. Height	28	28	28	28	28	28	-
	Max. Height	35	35 (AUP)	35	35 (AUP)	35	35 (AUP)	35
	Within 15' of Rear Property Line	22	28	22	28	22	28	22
	ADU	20	16	20	16	20	16	20
Max. Lot Coverage (%)	1-2 Units and Non-Res. Uses	40	40	50	No changes See Table 1	50	No changes See Table 1	100
	3-7 Units	50	40	55		55		100
	8+ Units	55	40	55		60		100
Min. Setback, Front (ft)		15 [4]	No changes See Table 1	15 [4]	No changes See Table 1	10 [4]	No changes See Table 1	-
	Adjacent Non-Res. District	-		-		-		5
	Adjacent Res. District	-		-		-		10
	Reduce w/AUP	-		-		-		No Min.
Min. Setback, Rear (ft)		4	No changes See Table 1	4	No changes See Table 1	4	No changes See Table 1	-
	ADU	4		4		4		4
	Adjacent Non-Res. District	-		-		-		No Min./5 [2]
	Adjacent Res. District	-		-		-		10/10% [3]
Min. Setback, Interior Side (ft)		4	No changes See Table 1	4	No changes See Table 1	4	No changes See Table 1	-
	ADU	4		4		4		4
	Adjacent Non-Res. District	-		-		-		0
	Adjacent Res. District	-		-		-		10/10% [3]
Min. Setback, Street Side (ft)		4	4	4	No changes See Table 1	4	No changes See Table 1	-
	Adjacent Non-Res. District	-	-	-		-		5
	Adjacent Res. District	-	-	-		-		10/10% [3]
Min. Building Separation (ft)		5	No Min.	5	No changes See Table 1	5	No changes See Table 1	5
Off-Street Parking (spaces per unit)	Min. Spaces	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.	No Min.
	Min. Spaces if Roadway width < 26 ft	-	1	-	1	-	1	-
	Max. Spaces if 0.25mi from Transit Hub or Corridor	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	1 du: 0 2+ du: 0.5	-
	Max. Driveway Width (ft)	20	20	20	20	20	20	20
Min. Long-Term Residential Bicycle Parking		1-4 Units: None 5+ Units: 1 per 3 Bedrooms GLA: Greater of 2 or 1 per 2.5 Bedrooms						
Min. Short-Term Residential Bicycle Parking		1-4 Units: None 5+ Units: Greater of 2 or 1 per 40 Bedrooms GLA: Greater of 2 or 1 per 20 Bedrooms						
Front Façade Elevation, within Front 40' of Lot	Min. % Entries, Glazing, or Railing; Incl. Trim, Exclude Garage Doors	20%	20%	20%	20%	20%	20%	20%

[1] A Use Permit is required to establish a unit that is within 150 feet of an M or MM district; or a construction product manufacturing or primary product manufacturing use. ([BMC 23.206.090\(B\)\(8\)](#) MU-R Mixed Use-Residential District)  
 [2] Min 5 ft rear setback if rear of lot abuts a street  
 [3] 10 ft of 10% of lot width, whichever is less  
 [4] Or average front setback of adjacent structure(s), whichever is less.  
 [5] If on a lot with a duplex or attached multi-family dwelling, max 2 detached ADUs or up to 25% of the total number of existing units may be converted into ADUs, otherwise max 1 ADU if more than 1 detached dwelling unit on a lot. A maximum of 1 ADU or JADU is permitted in the R-1H, R-2H, and R-2AH.

Chapter 23.326  
DEMOLITION AND DWELLING UNIT CONTROL

Sections:

- 23.326.010 Chapter Purpose.
- 23.326.020 General Requirements.
- 23.326.030 Eliminating Dwelling Units through Demolition.
- 23.326.040 Eliminating Dwelling Units through Conversion and Change of Use.
- 23.326.050 Private Right of Action.
- 23.326.060 Elimination of Residential Hotel Rooms.
- 23.326.070 Demolitions of Non-Residential Buildings.
- 23.326.080 Building Relocations.
- 23.326.090 Limitations.

23.326.010 Chapter Purpose.

This chapter establishes demolition and dwelling unit control standards that promote the affordable housing, aesthetic, and safety goals of the City.

23.326.020 General Requirements.

A. *Applicability.* No dwelling unit or units may be eliminated or demolished except as authorized by this chapter.

B. *Findings.* In addition to the requirements below, the Zoning Adjustments Board (ZAB) may approve a Use Permit to eliminate or demolish a dwelling unit only upon finding that eliminating the dwelling unit would not be materially detrimental to the housing needs and public interest of the affected neighborhood and Berkeley.

23.326.030 Eliminating Dwelling Units through Demolition.

A. *Buildings with Two or More Units Constructed Before June 1980.*

1. *Applicability.* This subsection only applies to building with two or more units constructed before June 1980.

2. *Limitation.*

(a) Demolition is not allowed if:

- i. The building was removed from the rental market under the Ellis Act during the preceding five years; or
- ii. There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

3. *Findings.* The ZAB may approve a Use Permit to demolish a building constructed before June 1980 on a property containing two or more dwelling units if any of the following are true:

- (a) The building containing the units is hazardous or unusable and is infeasible to repair.
- (b) The building containing the units will be moved to a different location within Berkeley with no net loss of units and no change in the affordability levels of the units.
- (c) The demolition is necessary to permit construction of special housing needs facilities such as, but not limited to, childcare centers and affordable housing developments that serve the greater good of the entire community.
- (d) The demolition is necessary to permit construction approved pursuant to this chapter of at least the same number of dwelling units.

4. *Fee Required.*

(a) The applicant shall pay a fee for each unit demolished to mitigate the impact of the loss of affordable housing in Berkeley.

(b) The amount of the fee shall be set by resolution of the City Council.

(c) *In Lieu of a Fee.*

i. In lieu of paying the impact fee, the applicant may provide a designated unit in the new project at a below market rate to a qualifying household in perpetuity.

ii. The affordability level of the below market rent and the income level of the qualifying household shall be set by resolution of the City Council.

iii. The applicant shall enter into a regulatory agreement with the City of Berkeley to provide the in lieu units.

5. *Occupied Units.*

(a) *Applicability.*

i. The requirements in this subsection apply if units to be demolished are occupied.

ii. These requirements do not apply to tenants who move in after the application for demolition is submitted to the City if the owner informs each prospective tenant about the proposed demolition and that demolition constitutes good cause for eviction.

(b) *Notice.* The applicant shall provide all sitting tenants notice of the application to demolish the building no later than the date it is submitted to the City, including notice of their rights under Municipal Code Section 13.76 (Rent Stabilization and Eviction for Good Cause Program).

(c) *General Requirements.*

i. The applicant shall provide assistance with moving expenses equivalent to in Chapter 13.84 (Relocation Services and Payments for Residential Tenant Households).

ii. The applicant shall subsidize the rent differential for a comparable replacement unit, in the same neighborhood if feasible, until new units are

ready for occupancy. Funding for the rent differential shall be guaranteed in a manner approved by the City.

iii. *Exception.* An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with this subsection but must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended and the California Relocation Act (Government Code sections 7260 et seq.).

(d) *Sitting Tenants Rights.*

i. Sitting tenants who are displaced as a result of demolition shall be provided the right of first refusal to move into the new building.

ii. Tenants of units that are demolished shall have the right of first refusal to rent new below-market rate units designated to replace the units that were demolished, at the rent that would have applied if they had remained in place, as long as their tenancy continues.

iii. Income restrictions do not apply to displaced tenants.

iv. *Exception.*

(1) An applicant who proposes to construct a 100 percent affordable housing project is not required to comply with 23.326.030.A.5.a, b, and c, but must comply with the following requirement.

(2) Sitting tenants who are displaced as a result of demolition and who desire to return to the newly constructed building will be granted a right of first refusal subject to their ability to meet income qualifications and other applicable eligibility requirements when the new units are ready for occupancy.

B. *Buildings with a Single Dwelling Unit.*

1. *Applicability.* This subsection only applies to buildings with a single dwelling unit.

2. *Limitation.*

(a) Demolition is not allowed if:

- i. The building was removed from the rental market under the Ellis Act during the preceding five years; or
- ii. There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

(b) Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

C. *Accessory Buildings.* Notwithstanding anything in Municipal Code Title 23 (Zoning Ordinance) to the contrary, but subject to any applicable requirements in Municipal Code Section 3.24 (Landmarks Preservation Ordinance), accessory buildings of any size, including, but not limited to, garages, carports, and sheds, but not including any structure containing a lawfully established dwelling unit, which serves and is located on the same lot as a lawful residential use, may be demolished by right.

23.326.040 Eliminating Dwelling Units through Conversion and Change of Use.

A. *General.* The ZAB may approve a Use Permit for the elimination of a dwelling unit in combination with another dwelling unit used for occupancy by a single household if it finds that:

1. The existing number of dwelling units exceeds maximum residential density in the district where the building is located; and
2. One of the following is true:
  - (a) One of the affected dwelling units has been occupied by the applicant's household as its principal place of residence for no less than two years before the date of the application and none of the affected units are currently occupied by a tenant.

(b) All of the affected dwelling units are being sold by an estate and the decedent occupied the units as their principal residence for no less than two years before the date of their death.

B. *Limitations.*

1. Demolition is not allowed if:

(a) The building was removed from the rental market under the Ellis Act during the preceding five years; or

(b) There have been verified cases of harassment or threatened or actual illegal eviction during the immediately preceding three years.

2. Where allegations of harassment or threatened or actual illegal eviction are in dispute, either party may request a hearing before a Rent Board Hearing Examiner. The Rent Board Hearing Examiner will provide an assessment of the evidence and all available documentation to the ZAB. The ZAB shall determine whether harassment or threatened or actual illegal eviction occurred.

C. *Effect of Noncompliance with the Two-Year Requirement.*

1. If a unit eliminated under Subsection A (General) is not occupied by the applicant's household for at least two consecutive years from the date of elimination, the affected unit must be restored to separate status.

2. This requirement shall be implemented by a condition of approval and a notice of limitation on the property, acceptable to the City of Berkeley.

3. The condition and notice will provide that if the owner's household does not occupy the unit for at least two years from the date of elimination the affected units must either be restored as separate dwelling units and the vacant unit(s) offered for rent within six months or the owner must pay a fee of \$75,000 in 2013 dollars, adjusted in May of each year according to the Consumer Price Index for the San Francisco Bay Area. The fee shall be deposited into the City of Berkeley's Housing Trust Fund.



4. The City of Berkeley may exempt an applicant from the two-year residency requirement if of an unforeseeable life change that requires relocation.

D. *Effect of Eliminating a Dwelling Unit.*

1. If eliminating a dwelling unit reduces the number of units in a building to four, the applicant shall record a notice of limitation against the subject property that the limitation on eviction of tenants under Chapter 13 (Public Peace, Morals and Welfare) shall continue to apply until:

(a) The building is demolished; or

(b) Sufficient units are added or restored such that the building contains at least five units.

2. The Zoning Officer may issue an AUP for a building conversion which eliminates a dwelling unit upon finding that the conversion will restore or bring the building closer to the original number of dwelling units that was present at the time it was first constructed, provided the conversion meets the requirements 23.326.040.A.1 and 2 and 23.326.040.B and C.

E. *Exceptions.*

1. The ZAB may approve a Use Permit for a change of use to a community care or a child care facility which eliminates a dwelling unit if it finds that such use is in conformance with the regulations of the district in which it is located.

2. The ZAB may approve a Use Permit to eliminate a dwelling unit through combination with another dwelling unit for the purpose of providing private bathrooms, kitchenettes, accessibility upgrades, and/or seismic safety upgrades to single-residential occupancy rooms in residential developments undergoing a publicly-funded rehabilitation.

3. Notwithstanding the general Use Permit requirement under 23.326.020 (General Requirements), a lawfully established accessory dwelling unit that is not a controlled rental unit may be eliminated with a Zoning Certificate if:

- (a) The re-conversion restores the original single-family use of the main building or lot; and
- (b) No tenant is evicted.

23.326.050 Private Right of Action.

Any affected tenant may bring a private action for injunctive and/or compensatory relief against any applicant and/or owner to prevent or remedy a violation of Sections 23.326.030 (Eliminating Dwelling Units through Demolition) and 23.326.040 (Eliminating Dwelling Units through Conversion and Change of Use). In any such action a prevailing plaintiff may recover reasonable attorney's fees.

23.326.060 Elimination of Residential Hotel Rooms.

A. *General Requirements.* Before removal, the following requirements must be met for the ZAB to approve a Use Permit for the elimination of residential hotel rooms:

1. The residential hotel owner shall provide or cause to be provided standard housing of at least comparable size and quality, at comparable rents and total monthly or weekly charges to each affected tenant.
2. One of the following three requirements shall be met:
  - (a) The residential hotel rooms being removed are replaced by a common use facility, including, but not limited to, a shared kitchen, lounge, or recreation room, that will be available to and primarily of benefit to the existing residents of the residential hotel and that a majority of existing residents give their consent to the removal of the rooms.
  - (b) Before the date on which the residential hotel rooms are removed, one-for-one replacement of each room to be removed is made, with a comparable room, in one of the methods set forth in this section.
  - (c) Residential hotel rooms are removed because of building alterations related to seismic upgrade to the building or to improve access to meet the requirements of the American Disabilities Act (ADA).

B. *Criteria for Replacement Rooms.* For purposes of this section, replacement rooms must be:

1. Substantially comparable in size, location, quality, and amenities;
2. Subject to rent and eviction controls substantially equivalent to those provided by the Rent Stabilization Ordinance or those that applied to the original rooms which are being replaced; and
3. Available at comparable rents and total monthly or weekly charges to those being removed. Comparable rooms may be provided by:
  - (a) Offering the existing tenants of the affected rooms the right of first refusal to occupy the replacement rooms;
  - (b) Making available comparable rooms, which are not already classified as residential hotel rooms to replace each of the rooms to be removed; or
  - (c) Paying to the City of Berkeley's Housing Trust Fund an amount sufficient to provide replacement rooms.
    - i. The amount to be paid to the City of Berkeley shall be the difference between the replacement cost, including land cost, for the rooms and the amount which the City of Berkeley can obtain by getting a mortgage on the anticipated rents from the newly constructed rooms.
    - ii. The calculations shall assume that rents in the newly constructed rooms shall not exceed the greater of either a level comparable to the weekly or monthly charges for the replaced rooms or the level which would be charged if no current tenant paid more than 30 percent of such tenant's gross income for rent.

C. *Exception for Non-Profit Ownership.* In a residential hotel owned and operated by a non-profit organization, recognized as tax-exempt by either the Franchise Tax Board and/or the Internal Revenue Service, residential hotel rooms may be changed to non-residential hotel room uses if the average number of residential hotel rooms per day in

each calendar year is at least 95 percent of residential hotel rooms established for that particular residential hotel.

23.326.070 Demolitions of Non-Residential Buildings.

A. *Main Non-Residential Buildings.* A main building used for non-residential purposes may be demolished with a Use Permit.

B. *Accessory Buildings.*

1. Demolishing an accessory building with less than 300 square feet of floor area is permitted as of right.
2. An accessory building with 300 square feet or more of floor area may be demolished with an AUP.

C. *Landmarks Preservation Commission Review.*

1. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review before consideration of the Use Permit or AUP.
2. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the ZAB its comments on the application.
3. The ZAB shall consider the recommendations of the LPC in when acting on the application.

D. *Findings.* A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the ZAB or the Zoning Officer finds that:

1. The demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City of Berkeley; and
2. The demolition:
  - (a) Is required to allow a proposed new building or other proposed new use;

(b) Will remove a building which is unusable for activities which are compatible with the purposes of the district in which it is located or which is infeasible to modify for such uses;

(c) Will remove a structure which represents an inhabitable attractive nuisance to the public; or

(d) Is required for the furtherance of specific plans or projects sponsored by the City of Berkeley or other local district or authority upon a demonstration that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project.

#### 23.326.080 Building Relocations.

##### A. *Treatment of Building Relocation.*

1. Relocating a building from a lot is considered a demolition for purposes of this chapter.

2. Relocating a building to a lot is considered new construction and is subject to all requirements applicable to new construction.

3. When a building is relocated to a different lot within in Berkeley, the lot from which the building is removed shall be known as the source lot and the lot on which the building is to be sited shall be known as the receiving lot. In such cases all notification requirements apply to both the source and receiving lots.

##### B. *Findings.* The ZAB may approve a Use Permit to relocate a building upon finding that:

1. The building to be relocated is not in conflict with the architectural character, or the building scale of the neighborhood or area to which it will be relocated; and

2. The receiving lot provides adequate separation of buildings, privacy, yards, and usable open space.

23.326.090 Limitations.

A. *Unsafe, Hazard, or Danger.*

1. Notwithstanding anything to the contrary, if a building or structure is unsafe, presents a public hazard, and is not securable and/or is in imminent danger of collapse so as to endanger persons or property, as determined by the city's building official, it may be demolished without a Use Permit.

2. The Building Official's determination in this matter shall be governed by the standards and criteria in the most recent edition of the California Building Code that is in effect in the City of Berkeley.

B. *Ellis Act.* This chapter shall be applied only to the extent permitted by state law as to buildings which have been entirely withdrawn from the rental market pursuant to the Ellis Act (California Government Code Chapter 12.75).

## **Proposed Meeting Dates for Planning Commission 2024**

Regular Meetings: First Wednesday of the month except for July and October

*Reserve Third Wednesday of the month for Special Meetings*

### Planning Commission Meetings

Wednesday, January 17, 2024

Wednesday, February 7, 2024

Wednesday, March 6, 2024

Wednesday, April 3, 2024

Wednesday, May 1, 2024

Wednesday, June 5, 2024

Wednesday, July 17, 2024

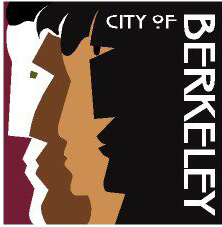
*August Recess*

Wednesday, September 4, 2024

(Rosh Hashanah) Wednesday, October 9, 2024

Wednesday, November 6, 2024

Wednesday, December 4, 2024



**Planning and Development Department**  
Land Use Planning Division

STAFF MEMORANDUM  
November 1, 2023

TO Members of the Planning Commission  
FROM Robert Rivera, Senior Planner  
SUBJECT San Pablo Avenue Specific Plan – Overview and Update

SUMMARY

The San Pablo Avenue Specific Plan seeks to create a vision for the future of the corridor that considers regional and citywide goals for access to housing, equity, safer streets, sustainability, and an economically vibrant commercial corridor. The Specific Plan will primarily focus on land use policies including allowed uses and development standards and their relationship to economic development, such as promoting active ground floor frontage and encouraging activity within commercial nodes along the San Pablo Avenue. The plan will outline programs and policies to encourage and support diverse housing, commercial activities, and public amenities consistent with the City of Berkeley’s Strategic Plan goals to “create affordable housing” and “champion and demonstrate social and racial equity”.

The SPASP effort began in June 2023 and is projected to be completed by the end of 2025. This memo provides an update on the current status of the planning process, a summary of recently conducted outreach efforts, and an overall timeline for completion.

CURRENT SITUATION AND ITS EFFECTS

Project team

In April 2023, MTC and ABAG awarded the consulting team a contract to assist the City of Berkeley with the development of the specific plan. The project team consists of a variety of City departments which include staff from the Land Use Planning Division, Transportation Division, and Office of Economic Development, as well as firms such as Community Design + Architecture (landscape architecture, transportation planning, urban design), Urban Planning Partners (land use), InterEthnica (outreach and engagement, translation services), Street Level Advisors (economic development and housing), Fehr + Peers (transportation), and Diablo Engineers (research and technical analysis).



### San Pablo Avenue Specific Plan Area and Study Area

Staff have conducted an analysis of the PDA in order to determine the proposed San Pablo Avenue Specific Plan Area and the Study Area (Attachment 1). Priority Development Areas are areas near public transit planned for new homes, jobs and community amenities. PDAs are areas adopted by ABAG and MTC in the regional long-range plan, Plan Bay Area 2050. The existing PDA boundary primarily focuses on parcels fronting San Pablo Avenue and is intended for regional planning and funding related efforts. The proposed Specific Plan Area boundary is more refined on a parcel-by-parcel basis based on staff analysis of existing uses, lot and parcel configurations, and existing conditions.

### Existing Conditions Summary

Currently, staff are collecting and analyzing existing conditions to establish baseline conditions and provide context for policy recommendations during planned public outreach and engagement events. Initial findings include:

- **Demographics and Racial Equity.** The study area population increased by 20 percent between 2000 to 2020. Black or African American, non-Hispanic population within the study area decreased approximately 14 percentage points, from 29 percent in 2000 to 15 percent in 2020. White, non-Hispanic population within the study grew 8 percentage points, from 38 percent in 2000 to 46 percent in 2020. Asian, Pacific Islander population grew approximately three percentage points from 11 percent in 2000 to 14 percent in 2020. Hispanic or Latinx population slightly declined by half a percentage point from 17 percent in 2000 to 16.6 percent in 2020. Other race or multiple races population grew from 5 percent in 2000 to 9 percent in 2020.<sup>1</sup> Education levels within the study area are high. In all census tracts within the study area, the average percent of people 25 years and over with a High School graduate or higher is 95 percent and the average percent with a Bachelor's degree or higher is 64 percent. The study area population includes a higher percent of people between the age of 25 to 44 years, 35 percent, compare to citywide population, 28 percent. The average median individual income for all census tracts within the study area is approximately \$60,077.<sup>2</sup>
- **Land Use.** Along the entire San Pablo Avenue frontage, the General Plan land use designation is Avenue Commercial. The land use designations for properties adjacent to the corridor are mixed and include Manufacturing, Manufacturing Mixed-Use, Low Medium Density Residential, Medium Density Residential, and High Density Residential. The Plan Area is predominantly zoned West Berkeley Commercial and provide diverse commercial services to residents and businesses, including restaurants and both small and large retail formats. Beyond San Pablo Avenue, the zoning districts include Mixed-Use Light Industrial (MULI), Mixed-Use Residential (MUR), Limited Two-Family Residential (R-1A), Restricted Two-Family Residential (R-2), Restricted Multiple-Family

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<sup>1</sup> U.S. Decennial Census, 2000 Table P7, 2010-2020 Table P9

<sup>2</sup> ACS21\_5yr: TableS0601. Selected Characteristics of the Total and Native Populations in the United States

Residential (R-2A), and University Avenue Commercial (C-U), Multi-Family Residential (R-4)

- **Public Infrastructure and Transportation.** San Pablo Avenue is a four-lane primary transportation corridor extending from the Carquinez Bridge through Berkeley to Downtown Oakland. Within Berkeley, San Pablo Avenue is characterized by mostly mature trees along the majority of the corridor, street trees along the sidewalks on both sides of the corridor and trees in the median. The average sidewalk width is 13 feet from the face of curb to the edge of right of way. Existing bus stops provide limited shelter, seating and lighting.
- **Housing.** Within the study area, half of tenants pay more than 30 percent of their income for rent and 26 percent of tenants are paying more than 50 percent of their income.<sup>3</sup> Eighteen percent of tenants are paying 50 percent or more of their income and make less than \$35,000 annually.<sup>4</sup> Household ownership percentage is higher within the study area on average than citywide. Owner-occupied housing is 52 percent of units while owner-occupied housing citywide is 47 percent. However, percentage of owner-occupied and renter-occupied units vary greatly based on census tract within the study area with the lowest percentage of owner-occupied housing being 24 percent and the highest percent being 66 percent.
- **Jobs and Economic Programs.** San Pablo Avenue is the City of Berkeley's only primary commercial district that does not have its own business association, likely due to the length of the corridor, the wide range of business types and the regional nature of the corridor. A 2023 National Federation of Independent Business Research Foundation<sup>5</sup> Survey showed that 32 percent of small business owners cite inflation as their biggest challenge, that 41 percent are struggling to fill open jobs, and that 85 percent have felt supply chain problems. Recent commercial closures on the corridor include KC's BBQ, Ohmega Salvage and Albatross Pub. Recent openings include Daruma Sushi, Solar Car Wash, and the reopening of Bartavelle in a new location just down the street.
- **Resilience and Climate Adaptation.** The Study Area includes parks and green spaces such as San Pablo Park, George Florence Park, and Strawberry Creek Park. Plan Bay Area 2050 includes strategies to encourage expanding access to parks and open space include maintaining urban growth boundaries and modernizing and expanding parks, trails, and recreation facilities. The City's Climate Action Plan (2009) recognizes an inequitable distribution of urban tree canopy citywide, with fewer trees located in the West and South Berkeley Neighborhoods. The City plans to plant 1,000 new trees in West and South Berkeley neighborhoods over the next two years through an Urban Greening Grant (\$726,000) and an Environmental Enhancement and Mitigation Grant (\$576,000).

### Public Outreach

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<sup>3</sup> ACS21\_5yr: TableB25074. Household Income by Gross Rent As A Percentage Of Household Income In The Past 12 Months

<sup>4</sup> Ibid, 2021

<sup>5</sup> <https://www.nfib.com/surveys/small-business-economic-trends/>

The process includes an outreach strategy that engages a diverse group of stakeholders, especially community members living and working within and adjacent to the plan areas. The public process includes a variety of methods and activities to broaden participation including:

- Small Group Interviews
- Community Leader Interviews
- Public Workshops
- Technical Advisory Group Meetings
- Community Survey
- Pop-up Workshops/Tabling
- Targeted Intercept Surveys
- Site Tour

**Community Leader Interviews.** Staff conducted five initial community leader interviews in August and September 2023, which included representatives from a community-based organization, a neighborhood organization, and multiple local business owners who work and live within the San Pablo Avenue Study Area. Common themes and comments from the interviews include:

- **Create a sustainable, healthy environment.** Stakeholders would like the specific plan to promote and ensure access to nature, greenery, open space, and mature trees. Stakeholders expressed that the specific plan should design community gathering spaces and streetscapes to support community networks and encourage funded community resources and activities, such as farmer's markets or community gatherings.
- **Encourage and support small local business opportunities.** Stakeholders emphasized that streamlined permitting would help local business owners navigate the process. They would like the specific plan to encourage pedestrian traffic and foster a stronger sense of community and safety and suggested increasing lighting to improve safety and walkability.
- **Plan for future projected population and uses.** Stakeholders emphasized that RHNA-mandated housing number goals should address historic disparities and preserve architectural heritage to contribute to the character of the corridor.

**Technical Advisory Group.** On September 27, 2023, staff held the first Technical Advisory Group (TAG) meeting with representatives from Alameda County Transit Commission (ACTC), Alameda County Transit (AC Transit), City of Emeryville, City of Oakland and City of Berkeley staff from Office of Economic Development, Public Works, Planning and Transportation. Key takeaways from the discussion include:

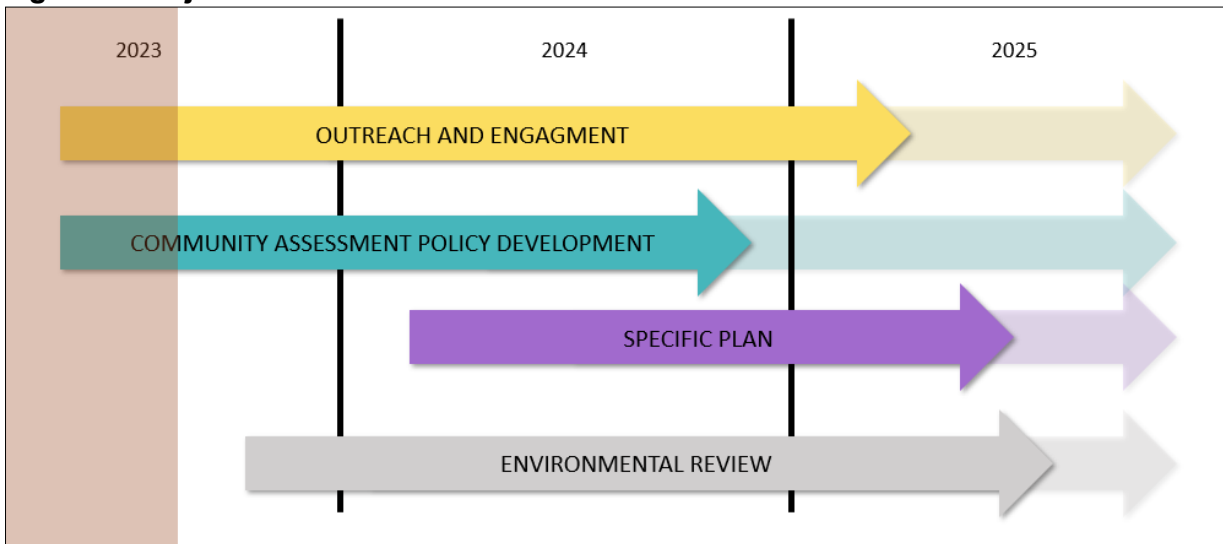
- **Open Spaces.** TAG members recognize that public open space and amenities are desired and noted that the median of London plane trees is a unique asset that limits right-of-way streetscaping. TAG members suggested looking at side streets and other options to accommodate a public "third" space. Staff noted there are limitations on San Pablo because it is a state designated highway and considered overflow for Highway I-80. TAG members recommended that staff consider how privately owned public open spaces can be created and noted an opportunity to look at rooftops to provide additional amenities for the public.

- **Planning for public transit is important.** TAG members noted that AC Transit has identified San Pablo as a bus rapid transit corridor and expects a high demand for public transit services.
- **Land Value Capture and Community Benefits.** TAG members recommended a benefit program similar to Emeryville’s Development Bonuses, a local point-based system that incentivizes developers to fund certain affordable housing and community benefits (e.g. parks, free transit, public art, small business assistance) in exchange for concessions such as greater density or less parking.<sup>6</sup>
- **Homeownership.** TAG members suggested looking at programs to incentivize townhouses and condominiums to provide more opportunities for ownership.

Project Timeline

The overall timeline of the planning process is approximately two years. Staff anticipate completion of the specific plan and any associated environmental review by Winter 2025. (Figure 1)

**Figure 1. Project Timeline**



BACKGROUND

Plan Bay Area 2050 (2021) is the long-range regional planning effort undertaken by MTC and ABAG to outline strategies for growth and investment in the nine-county Bay Area through the year 2050. Plan Bay Area 2050 envisions new development concentrated in PDAs. PDAs are places with convenient public transit service prioritized by local governments for housing, jobs and services. Jurisdictions with PDAs have access to dedicated funding for plans and infrastructure improvements focused in those areas.

<sup>6</sup> <https://www.codepublishing.com/CA/Emeryville/#!/Emeryville09/Emeryville094.html#9-4.204>

In December of 2020, MTC and ABAG released a Call for Letters of Interest for \$7.8 million in PDA Planning and Technical Assistance funds for jurisdictions in the Bay Area Region. The City of Berkeley submitted a Letter of Interest in February of 2021 and were awarded \$750,000 in PDA Planning Grant Funds for the San Pablo Avenue Specific Plan. The terms of the grant require the San Pablo Avenue Specific Plan be completed by the end of 2025.

#### ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with this informational report however possible future actions will be reviewed in accordance with the California Environmental Quality Act.

#### POSSIBLE FUTURE ACTION

Staff will continue to update the Planning Commission on the progress of the SPASP effort through additional informational memos, presentations, and other communications.

The project team is currently finalizing the timing and materials for an upcoming community survey (Fall 2023), pop-up information event (Fall 2023), and public workshop (Winter 2024). Community engagement will continue through the various phases of the project, including community asset analysis, policy development, public draft plan review, and final plan adoption. More detailed information about specific meeting dates and other project updates will be announced via email, printed flyers and postcards and on the project website, as location and agendas are confirmed.

The project website is available at <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/san-pablo-avenue-specific> and will be regularly updated about information with meeting dates, times, and public documents. Interested parties may subscribe to email notifications about the San Pablo Avenue Specific Plan from the project website.

#### FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Berkeley has secured a \$750,000 PDA Planning grant from the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) for this effort. Additionally, Council allocated \$150,000 toward additional work in the fiscal year 2022-23 budget.

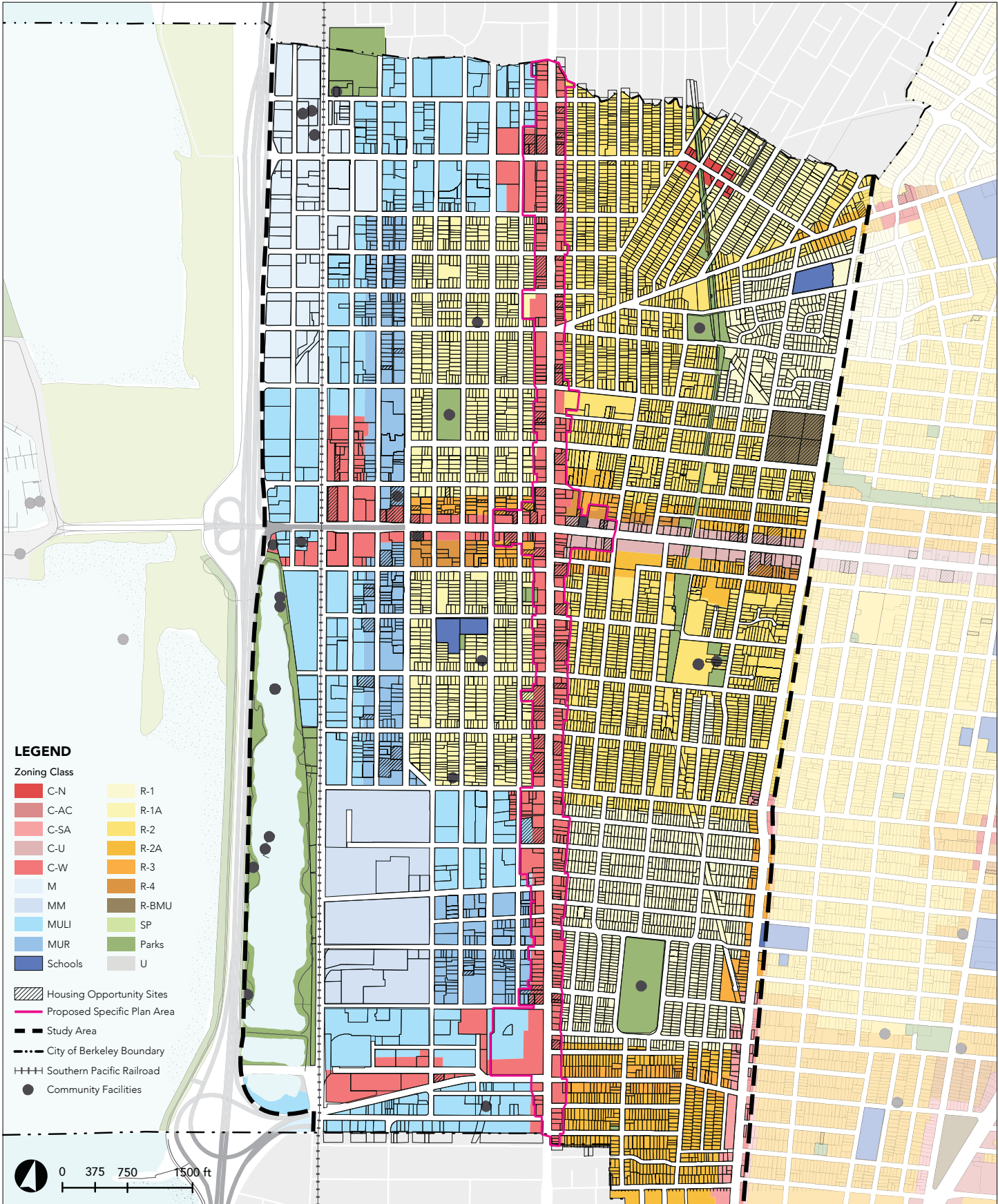
The proposed Specific Plan and possible zoning changes are intended to encourage the development potential of housing as well as commercial activities, which may result in higher property tax revenues and additional development fees, as well as increased City staff to administer and respond to increased demand for permits, community services and facilities, and fire and emergency services.

#### CONTACT PERSON

Robert Rivera, Senior Planner, Planning and Development, [RRivera@Berkeleyca.gov](mailto:RRivera@Berkeleyca.gov)

ATTACHMENTS

Attachment 1: San Pablo Avenue Specific Plan and Study Area



Source: City of Berkeley + MTC

## Communications

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**From:** Lee Bishop <bishoplm@gmail.com>  
**Sent:** Wednesday, October 18, 2023 3:20 PM  
**To:** Planning Commission  
**Subject:** North Berkeley objective design standards

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

Hello Planning Commissioners,

I'm so glad the North Berkeley BART development process is moving forward. It can't come quickly enough. I'm writing to urge you to adopt the objective design standards, but I have a few concerns, all related to increasing flexibility and maximizing the number of homes that site will accommodate. I would like to reduce setbacks and massing breaks, bring the overall height up to 85 feet, increase the height to four stories for the perimeter along Delaware, Acton, and Virginia, and it would also be great to narrow Delaware and Virginia streets to slow traffic and save some pedestrian lives.

I know I didn't get this in by noon, but I'm hoping it can still be considered for tonight's meeting. I was hoping to make it, but have some childcare complications.

Thank you!  
Lee Bishop  
District 1



## Communications

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**From:** passport123@juno.com  
**Sent:** Wednesday, October 18, 2023 6:23 PM  
**To:** Planning Commission  
**Subject:** Objective Design Standards for BART - tonites meeting!

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

Dear planning commission -

I am not able to attend in person but wanted to express my continued concerns and request that you please keep the 3-story heights and the lot depths for the buildings around the Virginia St., Acton St. and Delaware St. fronts - these are essential to fit the development into the surrounding community and also please keep the ODS recommended sidewalk setbacks (approx. 20') - with the number of people at this site and regular pedestrian traffic, having the recommended setbacks is essential.

Thank you for your consideration.

Best regards,  
Jane Ann Lamph

## Communications

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**From:** Timothy Nelson <timothy28nelson@gmail.com>  
**Sent:** Thursday, October 19, 2023 10:47 AM  
**To:** Planning Commission; Shen, Alisa  
**Subject:** Objective Design Standards for BART

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

Dear Berkeley Planning Commission members,

My wife and I are residents on Acton St, two short blocks from the North Berkeley BART station.

Regarding the overall plan as currently proposed, we still think the project is too large for the site and neighborhood....Too tall and too many units.

Regarding the ODS Public Draft currently available, we support the following:

1. Keep the project scope and size NO LARGER than current.
2. Keep the 3-story heights and lot depths for buildings facing Virginia, Acton and Delaware Streets
3. Keep the breaks in building massing....Avoid a giant monolithic block
4. Keep the sidewalk setbacks (20') as recommended.

PLEASE resist pressure to increase the size and density of the project.

Although we know we are powerless to change anything now (or at any point, really), we still feel that the entire project is far out of scale with the neighborhood, and that it will be deeply regretted in the future as a failure in judgement and vision.

Thank you!

Sincerely,  
Timothy Nelson & Beth Rockmill  
1549 Acton St.