



Office of the Mayor

ACTION CALENDAR

April 5, 2016

TO: Honorable Members of the City Council

FROM: Mayor Tom Bates

SUBJECT: Addressing the Housing Emergency

RECOMMENDATION

**1. Create a City of Berkeley Housing Action Plan**

Request the City Manager report to the City Council by May 31 on current housing referrals. The City Manager should report on projected timelines for implementation as well as estimated costs and staffing needs. The timeline should identify those items that can be implemented in the near term.

Request the City Manager come back to Council by May 31 with a suggested strategy that could lead to the creation of a Housing Action Plan similar to those of other cities including Oakland, Seattle, and Boston. The Housing Action Plan should follow a process similar to that of the Climate Action Plan, with public participation and a resulting policy document that includes the following goals and visions:

1. recognize the need for housing at all affordability levels and the need to minimize displacement;
2. remain nimble and flexible to respond to changing conditions such as Berkeley's anticipated growth and role in the region;
3. set targets for the rehabilitation and building of market-rate and affordable housing units for and at all income levels;
4. incentivize a diverse variety of housing types and materials built to the highest environmental standards feasible; and
5. continue to collaborate with outside organizations to address the housing needs of students and low-income residents and to identify new opportunities.

**2. Revise the Affordable Housing Mitigation Program and Fee**

(This recommendation previously appeared on the Council's Feb. 23, 2016 agenda and was held over to April 5.)

Request that the City Manager return to the Council with a revised Affordable Housing Mitigation Fee ordinance and a Council resolution to

1. increase the percentage of affordable units -- to 20% of market-rate units from the current 10% -- that can be provided in lieu of the Mitigation Fee,
2. expand the level of affordability for such units, and
3. increase the Fee, which is due at Certificate of Occupancy, to \$34,000 from the current \$28,000 and add an alternative option to pay \$28,000 if paid early, when the Building Permit is issued.

It is recommended that the revisions take into consideration the findings from the most recent Nexus Study, the input from the Feb. 16, 2016 Special City Council Meeting on housing and the Suggested Revisions section below.

**3. Conduct Periodic Council Review of Affordable Housing Mitigation Fee and In-lieu Affordable Units**

Request that the City Manager establish a procedure for the City Council to review the Affordable Housing Mitigation program on a periodic basis. The review should take place as soon as possible after a new nexus study is presented to the Council and at least every two years thereafter. The review should include the amount of the Fee, the percentage of affordable units that can be substituted in lieu of the fee and the levels of affordability for such units. Interim adjustments to the program could be adopted if the Council determines they are warranted. Also, request that the City Manager provide an annual report on the amount of fees collected and production of in-lieu affordable units.

**4. Evaluate Tax and Fee Waivers for Section-8 Rentals.**

Request the City Manager examine waiving City of Berkeley inspection and business-license fees and taxes on rental units rented to section-8 tenants.

Request the Rent Stabilization Board examine ways to incentivize landlords to rent to section-8 tenants including waiving registration fees for units rented to section-8 tenants.

**5. Examine City Development Fees on New Construction**

Request the City Manager examine the City of Berkeley development fees including Plan Review, Inspection, and Permit Fees to determine if they are aligned with actual costs.

**6. Establish a New Approach to the City Density Bonus**

Request that the City Manager and the Planning Commission draft an ordinance for a new City Density Bonus plan to allow developers of multi-family housing to add up to 15% more density (units) beyond the 35% maximum density currently allowed by the State Density Bonus. The extra 15% density would be obtained by including additional affordable housing on site, beyond that required to obtain the State Density Bonus, or by paying a fee to a special city fund for moderate-income housing. This new City Density Bonus proposal replaces the earlier City Density Bonus proposal referred by the Council on April 28, 2015.

**7. Allow By-Right Approval of Certain Housing Developments**

Request that the Planning Commission draft an ordinance to repeal the Downtown Green Pathway Ordinance and to replace it with a new process that would grant by-right approval, with early landmark determination, to multi-family housing developments, including mixed-use developments that meet specified criteria, which are described in this report. The new process would apply to all Priority Development Areas (PDAs) in the city.

Request that the Design Review Committee recommend design standards to include in the criteria for by-right approval.

**8. Repurpose West Berkeley Service Center**

Request the Planning Commission prepare a General Plan Amendment and Zoning Modification for the one half block bounded by Sixth Street, Fifth Street, and Hearst Avenue to change the zoning from Mixed-Use Residential to Commercial West Berkeley.

Request the Commission on Aging and Community Health Commissions consider the use of the West Berkeley Service Center as a joint elderly services and senior-living facility.

**9. Establish Buffer Zones around Priority Development Areas**

Request the Planning Commission draft an ordinance establishing R-3 zoned buffer zones around Priority Development Areas (PDAs) on the University Avenue, San Pablo Avenue and Telegraph Avenue corridors to increase the density and provide a gradual transition into the abutting neighborhoods. The buffer zones should extend up to one block in either direction of the primary corridor or 200 feet, whichever is less.

**10. Revise Zoning in the Southside**

Request the Planning Commission modify the zoning in the area bounded by the west side of College Avenue, the east side of Fulton Street, the north side of Dwight Way and the south side of Bancroft Way, incorporating the area included in the Southside Plan area and reinstate the Multistory Residential (R-4) zoning in areas recently reduced to R-Southside (RS) and Residential Medium Density (R-3). Areas zoned C-Telegraph (C-T) and Residential - Southside Mixed Use (RSMU) shall remain the same.

**11. Revise Height Limits on Residential Buildings with Ground-Floor**

**Residential Uses in Priority Development Areas outside of the C-DMU**

Refer to the Planning Commission revising Development Standards in Priority Development Areas (PDA) outside of the Commercial-Downtown Mixed Use (C-DMU) zoning district that would bring height limits for Residential Developments with ground-floor residential uses up to those for Mixed-Use Developments.

Projects electing to take advantage of the additional height would be subject to Design Review.

**12. Support an Alameda County Housing Bond for the November 2016 Ballot**

Adopt a Resolution urging the Alameda County Board of Supervisors to place an affordable housing bond on the November 8, 2016 general election ballot.

**13. Create a Citizens Task Force on Condominium Ownership Housing**

Request the City Council create a citizens task force to examine the issue of homeownership housing, specifically around condominium ownership and condominium conversions. The Task Force should consist of nine members, appointed by each Councilmember and the Mayor, with experience and/or expertise in fields related to housing. The Task Force should report back to the City Council in a year with findings and recommendations that include, but are not limited to, the residential condominium-conversion process, the application submittal requirements, local law requirements, and conversion and permitting fees. The City shall provide adequate staffing for the Task Force.

**BACKGROUND AND SUPPORTING MATERIAL FOR RECOMMENDATIONS:**

**Recommendation 1:**

**Expand City of Berkeley Housing Policy**

**BACKGROUND**

California's housing costs have been rising rapidly for decades especially in California's coastal communities.<sup>1</sup> This housing shortage is especially acute in the Bay Area, where a booming economy has led to rapid population growth that has far outpaced rates of homebuilding. In Berkeley alone, the population grew 5.5% between 2010 and 2015, while the housing supply increased by only 1.2% during that same time.<sup>2</sup>

The increasingly severe housing shortage has fed steep rises in rents and home prices far beyond the pace of inflation. Berkeley's median rent jumped by nearly \$400, or 12%, in the past year alone to \$3,584, while the median sales price of homes rose even faster, 15% over the past year to \$974,000, according to a Feb 16, 2016 City staff report. Under federal guidelines stipulating 30% of household income go towards housing costs, a renter household would need to earn an annual income of \$143,360 to afford a median-rent unit.

We do not have enough housing, and what we do have is rapidly becoming too expensive for low- and moderate-income households. Even without the statistics, the impacts are evident to most Berkeley residents and those who seek housing in our City. Our ethnic and cultural diversity is being eroded as low- and moderate-income households are displaced or priced out.

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<sup>1</sup> <http://www.lao.ca.gov/Publications/Report/3345>

<sup>2</sup> Computed by ABAG from California Department of Finance estimates, presented at the Council's Feb. 16, 2016 Special Meeting on housing

## **The Berkeley Housing Element**

State Housing Element law requires that local jurisdictions outline the housing needs of their community, the barriers or constraints to providing that housing, and actions proposed to address these concerns over an eight-year planning period. The Housing Element of Berkeley General Plan serves as a policy guide to address the comprehensive housing needs of the City.<sup>3</sup>

The focus of Berkeley's housing policy listed in the Housing Element is largely summarized by policy goal number one, "Housing Affordability," which states, "Housing is least affordable for people at the lowest income levels, and City resources should focus on this area of need."<sup>4</sup> True to this policy goal, the objectives and policy goals that follow in Chapter 5 (attached) focus on the creation, rehabilitation, and retention of below market-rate units, which are reserved for extremely low-income, very low-income, and low-income households.

Though the last update to the Housing Element was adopted by the City Council on April 28, 2015, the most recent Affordable Housing Nexus Study was not presented to Council until July 14, 2015.

## **2015 Affordable Housing Nexus Study**

Calculated with 2014 data, the 2015 Nexus Study brought to light significant changes to state of Berkeley's housing availability and affordability in the four years between the studies and the magnitude of the regional housing crisis. In 2010, households with incomes at or greater than 65% of the area median income (AMI) were able to afford market-rate rents, meaning 10% of Berkeley households would require rental assistance in a new 100-unit development. However by 2014, there had been a dramatic change: household incomes must be at or exceeding 100% AMI in order to afford market rate rents, meaning now 25.54% would require rental assistance.<sup>5</sup> The severity of the housing crisis is magnified even more by that fact that the \$3,434 median rent of an apartment figure used for the 2015 nexus study, has already increased to \$3,584 today, as previously stated.

## **Berkeley Housing Plan**

Berkeley is already a regional leader in policies for tenant protections and low-income assistance. At the February 20, Plan Bay Area meeting, "Calling the Bay Area Home: Tackling the Affordable Housing and Displacement Challenge," many from around the region called for things Berkeley already has in place: rent-stabilization, inclusionary housing, affordable-housing mitigation fees, commercial linkage fees, just-cause eviction, and short-term rental regulations among, many others. Despite all of our efforts, rents continue to escalate and the issue needs to be addressed on several fronts with a variety of approaches.

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<sup>3</sup> Housing Element Introduction

<sup>4</sup> Berkeley Housing Element, p 79

<sup>5</sup> [http://www.cityofberkeley.info/Clerk/City\\_Council/2016/02\\_Feb/City\\_Council\\_02-16-2016\\_-\\_Special\\_Meeting\\_Agenda.aspx](http://www.cityofberkeley.info/Clerk/City_Council/2016/02_Feb/City_Council_02-16-2016_-_Special_Meeting_Agenda.aspx)

- **Recognize the need for housing at all affordability levels and the need to minimize displacement**

Berkeley has robust supports for lower-income households at or below 80% AMI and that should continue and be strengthened, including the Section 8 program as well as on-site inclusionary units and 100% affordable-housing projects. The City must also now start to address the needs of moderate, workforce households (80%-120% AMI) as there is no sign of rent increases slowing and the 2015 nexus study demonstrated that 2014 households at 100% AMI need rental assistance.

- **Remain nimble and flexible to respond to changing conditions such as Berkeley's anticipated growth and role in the region**

While gentrification began in the 1990s during the Dot-Com Boom and slowed when the bubble burst, the impact of the second wave of gentrification, which began around 2008, has been especially visible and hard-hitting as the housing crisis across the State has also intensified.<sup>6</sup> Berkeley could not have predicted the ramifications of the regional tech boom, the growth of the University, and the blessing and curse of being a world renowned intellectual center that is walkable, bikeable, and linked by public transit to the region.

- **Set targets for the rehabilitation and building of market-rate and affordable housing units for and at all income levels**

While Berkeley can accommodate the housing needed to meet the state-mandated Regional Housing Need Allocation (RHNA) requirements, RHNA does not mean housing is actually being built. The following table from the Housing Element (p.8) shows Berkeley's failed to meet the 2007-2014 RHNA numbers, with the lowest production being in the moderate-income household bracket. During the previous round, Berkeley built 1,005 units. To meet the goals for the 2014-2022 RHNA, Berkeley will have to build 2,959 units over the next eight years.

In addition to building housing, Berkeley should investigate opportunities to acquire and rehabilitate existing units to provide below-market-rate housing to both low- and moderate-income households. By utilizing existing units, including rent-controlled units, the City can ease neighbor concerns about buildings being out-of-scale and incompatible with existing neighborhoods. The City would also be able to provide affordable housing to moderate-income residents and students, who are being priced out and do not qualify for existing BMR units because of federal restrictions.

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<sup>6</sup> [http://www.urbandisplacement.org/sites/default/files/images/case\\_studies\\_on\\_gentrification\\_and\\_displacement-full\\_report.pdf#page=4](http://www.urbandisplacement.org/sites/default/files/images/case_studies_on_gentrification_and_displacement-full_report.pdf#page=4) p 25

<b>Building Permits by calendar year</b>	<b>Total Units</b>	<b>Very Low Income</b>	<b>Low Income</b>	<b>Moderate Income</b>	<b>Above Moderate Income</b>
2007	258	5	35	5	213
2008	280	23	15	6	236
2009	304	23	23	0	258
2010	5	0	0	0	5
2011	24	10	1	0	13
2012	136	11	10	1	114
2013	39	0	3	7	29
2014	144	4	0	3	137
<b>GRAND TOTAL 2007-2014</b>	<b>1,190</b>	<b>76</b>	<b>87</b>	<b>22</b>	<b>1,005</b>
<b>07-14 Regional Fair Share Goal</b>	<b>2,431</b>	<b>328</b>	<b>424</b>	<b>549</b>	<b>1,130</b>
<i>Percent of Goal Achieved</i>	<i>51%</i>	<i>23%</i>	<i>21%</i>	<i>4%</i>	<i>89%</i>

*Source: City of Berkeley Planning Department*

- Incentivize a diverse variety of housing types and materials built to the highest environmental standards feasible**

City policy should reflect that different needs of students, professionals, families, and seniors, and it should promote new types of non-traditional housing: micro-units, group living, and single-room occupancy living. The City has made steps to provide more density while preserving neighborhood character with new by-right Accessory Dwelling Units regulations. The City should also consider how to incentives the “missing middle:” a range of multi-unit or clustered housing types compatible in scale with single-family homes like multifamily buildings with 4 or fewer units, bungalow courts, courtyard housing, and townhouses.<sup>7</sup> In addition to these considerations, the City should hold new developments to the highest environmental standards feasible and find more ways to promote these standards in existing housing stock.
- Continue to collaborate with outside organization to address the housing needs of students and low-income residents and to identify new opportunities**

The City itself cannot produce units of housing, and thus has to work with others to help house its residents. With long waiting lists for affordable housing, the City should look at ways to incentivize lower-income household housing. Though the Berkeley Housing Authority can issue around 300 section-8 vouchers to extremely low-income households, there are fewer and fewer landlords participating in the

<sup>7</sup> <http://missingmiddlehousing.com>

program. For low-income households, who are often housed in newly developed units, the cost of building units continues to rise for non-profit developers as land costs grow and the availability of labor shrinks because of other development around the region.<sup>8</sup> Housing is also challenging for students who are cramming more and more people into smaller spaces and sometimes living out of cars.<sup>9</sup> Compounding this hardship for students are the facts that full-time students do not qualify for below-market-rate rentals, the University doesn't guarantee housing throughout one's studies, and the University has accepted 750 additional in-state students this fall alone.<sup>10</sup>

In addition to its existing collaborations, the City should look for creative uses for existing land in the same way that produced the Oxford Plaza and the Ed Roberts Campus. Possible opportunities include senior centers for senior housing, Berkeley Unified School District properties, BART stations, the Ed Roberts parking lot, and underutilized land belonging to churches and religious institutions.

### **LAO Report: Perspectives on Helping Low-Income Californians**

The Commission should also consider the findings of the California Legislative Analyst's Office report, "Perspectives on Helping Low-Income Californians Afford Housing".<sup>11</sup> The LAO suggest "policy makers primarily focus on expanding efforts to encourage private housing development" to help low-income households. They conclude that many housing programs—vouchers, rent control, and inclusionary housing—attempt to make housing more affordable without addressing the underlying cause of California's high housing costs: a housing shortage.

They find the need for housing assistance outstrips resources and many low-income households receive no assistance, leaving a majority spending more than half their income on housing. Moreover, expanding assistance programs would be very expensive as affordable-housing construction requires large public subsidies and expanding housing vouchers would also be expensive. They insist that any approach that does not address the state's housing shortage faces the following problems: the undermining of housing vouchers, a rise in rent for households not receiving assistance, and problems for rent-control policies such as the "lock-in" effect and declining quality of housing.

They find that the lack of supply drives up housing costs while an increased supply lowers costs. Building new housing indirectly adds to the supply of housing at the lower end as housing becomes less desirable as it ages and new construction eases competition between middle- and low-income households. They also conclude that

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<sup>8</sup> February 16 Special Council Meeting presentation by Patrick Kennedy and Mark Rhoades

<sup>9</sup> <http://alumni.berkeley.edu/california-magazine/just-in/2016-02-18/crammed-berkeley-housing-zone-students-get-creative-and>

<sup>10</sup> <http://www.dailycal.org/2016/03/02/uc-berkeley-adds-750-additional-students-no-concrete-plans-increase-academic-infrastructure/>

<sup>11</sup> <http://www.lao.ca.gov/Publications/Report/3345>



more private development is associated with less displacement and results do not appear to be driven by inclusionary-housing policies.

### **National Trends**

Berkeley should look to what is happening in other metropolitan areas for insight into regional and national trends to help guide policy creation and implementation.

#### Boston

Boston has embarked upon creating a housing plan entitled Boston 2030. Boston 2030 has specific targeted goals for low-income, non-elderly households; preserving affordable housing; Boston's middle class; housing Boston's seniors; housing Boston's students; strong, healthy neighborhoods; green and sustainable housing; and resource development. A recent forecast by online real-estate marketplace Ten-X expects rent growth to slow and vacancies to rise through 2019, as a new wave of apartments opens up and population growth remains relatively slow.<sup>12</sup>

#### Denver

As of October 2015, weaker job growth and a wave of new units hitting the market slowed the rate of apartment rent increases across metro Denver, according to a report from Axiometrics.<sup>13</sup> Average apartment rents continued to soften in January, marking the fifth consecutive month that metro Denver has seen rents decrease, according to another survey by the same company.<sup>14</sup> The cost for ownership housing is also expected to slow as new construction helps bring prices back down.<sup>15</sup>

#### San Francisco

In neighboring San Francisco, the housing crisis has intensified so much that more and more of the workforce is being priced out, including teachers. Mayor Ed Lee and the San Francisco Unified School District announced in October 2015 a plan to build a 100-unit housing complex solely for public school teachers and paraprofessionals and invest up to \$44 million over the next five years to help them purchase homes.<sup>16</sup> These ideas are starting to be discussed in both Oakland and Los Angeles.

#### Seattle

While rents continue to increase overall, Seattle has been able to at least slow that increase in older housing stock as construction booms in concentrated areas of the city. Mayor Ed Murray has a goal to create 50,000 homes in ten years, by building or preserving 20,000 rent and income-restricted homes and building at least 30,000 new

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<sup>12</sup> <https://www.bostonglobe.com/business/2016/02/19/boston-rental-price-increases-forecast-slow/kK8fGjEpQzmspvTCKIzK5H/story.html>

<sup>13</sup> [http://www.denverpost.com/business/ci\\_29013199/average-metro-denver-apartment-rent-drops-5-downtown?source=infinite-up](http://www.denverpost.com/business/ci_29013199/average-metro-denver-apartment-rent-drops-5-downtown?source=infinite-up)

<sup>14</sup> [http://www.denverpost.com/business/ci\\_29563497/denver-apartment-rents-drop-2-month-january](http://www.denverpost.com/business/ci_29563497/denver-apartment-rents-drop-2-month-january)

<sup>15</sup> <http://www.thedenverchannel.com/money/consumer/zillow-predicts-slowdown-in-skyrocketing-denver-home-values>

<sup>16</sup> <http://www.sfgate.com/bayarea/article/Mayor-and-SFUSD-have-a-plan-to-help-teachers-keep-6583001.php>

market-rate homes.<sup>17</sup> In addition to concentrated large-scale development, the Mayor has examined eliminating single-family zoning in certain areas of the city.<sup>18</sup>

#### FINANCIAL IMPLICATIONS

Not applicable

#### ENVIRONMENTAL SUSTAINABILITY

Allowing people to live in proximity to work and amenities, especially in areas near mass transit, can help reduce commute times and increase use of public transportation, thus decreasing greenhouse gas emissions.

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### **Recommendation 2**

#### **Revise the Affordable Housing Mitigation Program and Fee**

The critical need for more affordable housing in Berkeley is widely recognized. The City seeks to increase the supply of such housing in a number of ways. One of the main mechanisms is the City's Affordable Housing Mitigation Fee (BMC Sec. 22.20.065), which is intended to help meet the increased need for affordable housing caused by construction of new market-rate rental units in Berkeley. (The addition of market-rate housing generates new jobs, many of which are filled by employees who cannot afford market-rate housing in Berkeley.) The ordinance requires such projects to pay a per-unit Fee, currently set at \$28,000, to the City's Housing Trust Fund, which funds affordable housing developments in the City. The ordinance allows market-rate projects to be exempt from the Fee if they provide affordable housing units on site – equal in number to 10% of the project's market-rate units. The affordable units must be affordable to very low income households, defined as those earning up to 50% of Area Median Income (AMI).

In assessing such a Fee, the City is required to conduct a "nexus study" to establish the relationship of the new housing, the resulting need for affordable housing and the amount of the Fee. Accordingly, the requirements in the Affordable Housing Mitigation Fee ordinance were adopted following a 2010 Nexus Study commissioned by the City. That study provided the basis for the current Fee, the equivalent percentage of affordable units to be included in the project and the level of affordability for such units.

Because the housing market and demographic information used in the 2010 study became outdated, the City commissioned a new assessment. The new assessment, the 2015 Nexus Study, was presented to the City Council on July 14, 2015. That Nexus Study found justification for a higher percentage of affordable units to be used as equivalent to the Fee. It also found that housing had become unaffordable to a larger proportion of the population earning more than 50% of the AMI. Additionally, the study found that the Fee could be raised while still allowing for a reasonable rate of return.

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<sup>17</sup> <http://www.seattletimes.com/business/real-estate/rent-increases-slowing-for-older-seattle-apartments/>

<sup>18</sup> [http://murray.seattle.gov/wp-content/uploads/2015/07/HALA\\_Report\\_2015.pdf](http://murray.seattle.gov/wp-content/uploads/2015/07/HALA_Report_2015.pdf)

### Suggested Revisions

This Council item addresses three components of the Affordable Housing Mitigation Fee program:

- 1) the percentage of affordable units deemed equivalent to the Fee, 2) the level of affordability for such units, and 3) the amount and timing of payment of the Fee:
  - 1) Increase the percentage of affordable units to 20%, up from the current 10%, in line with the findings from the most recent Nexus Study.
  - 2) Divide the affordable units into two tiers, or levels, of affordability. The first tier would be very low income households, which are those earning up to 50% of the AMI. The second tier would be low-income households, which are those earning up to 80% of the AMI. Increasing the level of affordability is consistent with the 2015 Nexus Study. Staff would be asked to consider options for the percentage of affordable housing in each tier, particularly the option of 10% affordable units in each tier (10% of the market rate units affordable to households earning up to 50% of AMI and 10% of the market rate units affordable to households earning up to 80% of AMI) and to recommend how to equate the affordable units to the Fee in each tier.
  - 3) Increase the Fee to \$34,000 per unit from the current \$28,000, and offer an option to pay \$28,000 per unit if paid early, prior to issuance of a Building Permit. The Fee currently is payable prior to issuance of a Certificate of Occupancy. The 2015 Nexus study found that the current Fee could be increased to \$34,000 and still allow a reasonable rate of return. This recommendation thus follows the Nexus study findings for the amount of Fee payable prior to Certificate of Occupancy, and adds the option of paying \$28,000 instead as an incentive for paying the Fee early. Depending on the rate of return at the time, a smaller fee paid earlier could be equal in value to a larger fee paid later. A fee paid earlier into the Housing Trust Fund also allows the City to begin providing affordable housing sooner.

The proposed increase in the percentage of affordable units and division of such units into two tiers of affordability are consistent also with the City's original Inclusionary Housing Ordinance, which required multi-unit housing projects to include 20% affordable housing up to 80% of the AMI, or pay in-lieu fees. (Rental housing was later excluded from the Inclusionary Housing Ordinance by the State Court of Appeal in *Palmer/Sixth Street Properties v. City Los Angeles* in 2009. As a result, the City's Affordable Housing Mitigation Fee ordinance was adopted for rental housing.)

### FINANCIAL IMPLICATIONS

Revising the Affordable Housing Mitigation Fee program and Fee will entail temporary added administrative costs, including staff time. Increasing the percentage of affordable housing equivalent to the Affordable Housing Mitigation Fee and increasing the Fee could add income to the Housing Trust Fund, depending on future choices made by project developers.

## ENVIRONMENTAL SUSTAINABILITY

Increasing affordable housing in Berkeley could help reduce commute times and increase use of public transportation for low income and very low income workers in jobs created by new market-rate housing, thus decreasing greenhouse gas emissions.

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### **Recommendation 3: Conduct Periodic Council Review of Affordable Housing Mitigation Fee and In-lieu Affordable Units**

The critical need for more affordable housing in Berkeley is widely recognized. The City seeks to increase the supply of such housing in a number of ways. One of the main mechanisms is the City's Affordable Housing Mitigation Fee (BMC Sec. 22.20.065), which is intended to help meet the increased need for affordable housing caused by construction of new market-rate rental units in Berkeley. (The addition of market-rate housing generates new jobs, many of which are filled by employees who cannot afford market-rate housing in Berkeley.)

The ordinance requires such projects to pay a per-unit Fee, currently set at \$28,000, to the City's Housing Trust Fund, which funds affordable housing developments in the City. The ordinance allows market-rate projects to be exempt from the Fee if they provide affordable housing units on site – equal in number to 10% of the project's market-rate units. Under the current law, the affordable units must be affordable to very low income households, defined as those earning up to 50% of Area Median Income (AMI).

In assessing such a Fee, the City is required to conduct a "nexus study" to establish the relationship of the new housing, the resulting need for affordable housing and the amount of the Fee. Accordingly, the requirements in the Affordable Housing Mitigation Fee ordinance were adopted following a 2010 Nexus Study commissioned by the City. That study provided the basis for the Fee, the equivalent percentage of affordable units to be included in the project and the level of affordability for such units.

Because the housing market and demographic information used in the 2010 study became outdated, the City commissioned a new assessment, the 2015 Nexus Study, which was presented to the City Council on July 14 last year. The 2015 Nexus Study found justifications for a higher fee, for a higher percentage of affordable units to be used as equivalent to the Fee, and for adding a higher level of affordability (since market-rate housing had become unaffordable to a larger proportion of the population earning more than 50% of the AMI).

Periodic review of the Affordable Housing Mitigation program would help ensure that the program reflects the sometimes dramatic changes in Berkeley's housing market where, for example, the city's median rent jumped 12% from last year.

FINANCIAL IMPLICATIONS

By increasing the likelihood that the Affordable Housing Mitigation Fee program reflects current economic conditions, periodic review of the program could help increase revenue for the Housing Trust Fund.

ENVIRONMENTAL SUSTAINABILITY

Insofar as periodic reviews of the program succeed in increasing the supply of affordable housing in Berkeley, they would increase opportunities for those with lower incomes who work in Berkeley to find housing here and thus reduce greenhouse gas emissions caused by auto commuting.

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**Recommendation 4:  
Evaluate Tax and Fee Waivers for Section-8 Rentals**

BACKGROUND

In Berkeley, the frequency at which landlords are renting to Section-8 tenants does not meet the demand for affordable housing from these tenants. In a special meeting on housing by council on February 16th, 2016, Carole Norris, Chair of the Board of the Berkeley Housing Authority, suggested that the City look into waiving the business license fee for units rented to Section 8 tenants to incentivize increased acceptance on the part of landlords of Section 8 vouchers. According to the Tia Ingram, Executive Director of the Berkeley Housing Authority, there are approximately 300 vouchers could potentially be issued but that are currently going unused.

Just last month, the Berkeley Housing Authority adopted new Payment Standards for the Section 8 program that align more closely with market rents. Combined with the new Payment Standards, there is potential for financial incentives towards increased acceptance of section-8 vouchers by reviewing both the City's and the Rent Board's respective fee structures. If the City and Rent Board waive certain fees specifically for units rented to section-8 households, the value of the vouchers in addition to the cost savings may lead more landlords to rent to those who receive these vouchers, potentially housing 300 more extremely low-income households.

**Berkeley Housing Authority Updated Payment Standards**

0-Studio	1-bedroom	2-bedrooms	3-bedrooms	4-bedrooms
\$1,449	\$1,746	\$2,208	\$3,078	\$3,431

**Property-Owners Fees Payable to the City of Berkeley**

<b>Fee</b>	<b>Department</b>
<b>Annual Registration Fee</b> \$213 per non-exempt unit*	Rent Stabilization Board
Annual <b>Per Unit/Room Fee</b> \$26.00* per rental unit, <u>or</u> \$13.00* per room of residential hotels & boarding houses with 5+ rooms.	Rental Housing Safety Program (RHSP)
<b>New Business License*</b> \$77 per rental property + \$25 registration fee	Finance-Customer Service Center
Annual <b>Business License Renewal</b> Fee subject to change based upon gross receipts of business.	Finance-Customer Service Center
<b>Residential and Business Fire Inspection Fee</b> \$87.50 for every 15 minutes inspector on site*	Fire Prevention
<b>Sewer Service Fee</b> Fee based on dwelling type and amount of water used*	Finance-Customer Service Center

FINANCIAL IMPLICATIONS

Reduced registration and inspection revenue.

ENVIRONMENTAL SUSTAINABILITY

Allowing people to live in proximity to work and amenities, especially in areas near mass transit, can help reduce commute times and increase use of public transportation, thus decreasing greenhouse gas emissions.

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**Recommendation 5**  
**Examine City Development Fees on New Construction**

BACKGROUND

At a special meeting of the City Council dedicated to housing on February 16, Patrick Kennedy presented to the Council on the current situation of market-rate development. Among the things discussed were the comparative costs of fees on new development across cities in the Bay Area. Though not current, data from the April 2014 report to the Emeryville City Council in its review of impact fees supports the idea that cost of construction in Berkeley is much higher than neighboring East Bay cities. On a

hypothetical 100-unit residential building in Berkeley at the time of the report, development fees included the following:

Impact Fees:

- Sewer Connection (EBMUD)
- Housing Mitigation Fee

Plan Review & Inspection Fees:

- Plan Check
- Design Review
- Traffic Engineering
- California Senate Bill 1473 Fee (Blgd. Strds.)
- Building Permit Filing Fee
- Zoning Review for Building Project
- Community Planning Fee
- California Title 24 Energy Fee
- California Title 24 Disability Access Fee
- Fire Life and Safety Plan Check Fees Sustainable Development Fee

Permit Fees:

- Building Permit
- Use Permit
- Building Permit Technology Fee
- California Strong Motion Instrumentation Fee

As seen in the following table, the total of Berkeley's plan review, inspection, and permit fees of \$919,560 (at the time of the report) far exceeded those of other cities—the next closest being Oakland at a significantly lower cost of \$512,858. (It should also be noted that this table does not include impact fees, which for this project would be an EBMUD sewer connection fee of \$132,439 and also an affordable-housing mitigation fee of \$2.8 mil.)

**Development Fees on a 100-Unit Residential Project in April 2014**  
*(Based on April 2014 data prepared for the Emeryville City Council)*

City	Plan Review & Inspection Fees	Permit Fee	Total Development Fees (excluding Impact Fees)
Alameda	\$26,605	\$1,782	\$28,387
Albany	\$9,089	\$93,190	\$102,279
<b>Berkeley</b>	<b>\$528,301</b>	<b>\$391,259</b>	<b>\$919,560</b>
El Cerrito	\$77,152	\$47,765	\$124,917
Emeryville	\$25,061	\$209,011	\$25,061
Oakland	\$451,572	\$61,286	\$512,858
Richmond	\$45,974	\$22,094	\$68,068
Walnut Creek	\$349,226	\$114,009	\$463,235

The City Manager should examine if these fees are aligned with actual costs and where processes can be streamlined and cost savings can be passed on to incentivize more housing being developed.

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**Recommendation 6:**  
**Establish a New Approach to the City Density Bonus**

The intent of this proposal is to help meet Berkeley's critical housing shortage by increasing the supply of affordable housing and market-rate housing, including transit-oriented housing that helps curb greenhouse gas emissions.

One of the chief means by which the State of California addresses the shortage of affordable housing is the State Density Bonus, which grants extra density beyond what is allowed by local zoning in exchange for including affordable housing units in the project. The maximum increase allowed is 35%. A parcel zoned for a maximum of 100 units, for example, would be allowed 135 units by including affordable housing in the project.

The amount of density that a developer may obtain under the State Density Bonus depends on how much affordable housing the developer provides and the level of affordability for such units. If a project includes units for very low income households, defined as those earning up to 50% of the Area Median Income (AMI), and seeks to obtain the maximum



35% density bonus, the project's affordable units must be at least 11 percent of the project's zoned maximum, also called the "base units." So, on a parcel zoned for a maximum of 100 base units, a developer would be permitted to build an extra 35 units, for a total of 135 units, if the project includes 11 units affordable to households earning up to 50% of the AMI. Alternatively, if the project includes units affordable to households earning up to 80% of the AMI, then such units must be 20% of the base units to obtain the maximum 35% increase in density. Projects that include some affordable housing but not enough to earn the maximum density may still be granted a lower percentage of increased density according to a sliding scale.

While the State Density Bonus provides a valuable mechanism for increasing the supply of affordable housing, it has limitations. It does not, for example, provide a density-bonus incentive for rental housing affordable to moderate-income households, often defined as those earning up to 120% of the AMI. The Council has received a number of economic analyses showing that moderate-income households are increasingly unable to afford housing in the city. In addition, the State Density Bonus' maximum of 35% increased density does not allow for cases where more density could serve the public interest.

This proposal would allow multi-family housing projects to obtain up to an extra 15% increase in density on top of the State Density Bonus maximum of 35% for a total maximum increase of 50%. Proposed projects that would earn 35% increased density under the State Density Bonus would be granted the additional increase up to 15% by one of two ways:

1. adding units affordable to households earning up to 120% of the AMI, which would serve moderate-income families, or
2. paying a fee to a special City fund for moderate-income housing. Staff would be asked to recommend an appropriate fund mechanism.

Projects that do not utilize the full 35% State Density Bonus would not be eligible for the City Density Bonus.

Staff and the Commission are asked to recommend an implementation plan, including the amount of additional affordable units and alternative fee, for the City Density Bonus that would maximize the addition of affordable housing – either by adding the housing on-site or paying a fee to the a new City fund to support moderate-income housing (affordable for households earning up to 20% of the AMI) -- while also being financially feasible for developers. Staff and the Commission are asked also for recommendations for establishing and administering the fund and for the ways it could support moderate-income housing.

#### The need for a different City Density Bonus proposal

Staff analysis of the former City Density Bonus called its legality into question. The former proposal would have offered an alternative to the State Density Bonus by allowing projects to gain 35% increased density by paying fees to the Housing Trust Fund instead of providing affordable housing on site. It also would have applied to projects already

approved in addition to future ones. Staff indicated that the former City Density Bonus could have run afoul of a state ban on local laws or regulations that would undermine the State Density Bonus, which requires that the affordable housing be included in the project. Staff also indicated that applying such a bonus to already approved projects would require amendments to General Plan and a return to the Zoning Adjustments Board for approval for amending the use permit for each project. The old proposal would be withdrawn and replaced by this new version. The new version would not apply until the maximum State Density Bonus, with its full allotment of on-site housing, has been utilized.

#### FINANCIAL IMPLICATIONS

Additional staff time would be required to analyze the proposal and administer any new program. If a City Density Bonus is adopted and results in additional housing, the City would gain additional property taxes, business license fees and sales taxes.

#### ENVIRONMENTAL SUSTAINABILITY

Increasing housing density in Berkeley, especially in areas near mass transit, can help reduce commute times and increase use of public transportation, thus decreasing greenhouse gas emissions.

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### **Recommendation 7: Allow By-Right Approval of Certain Housing Developments**

#### RECOMMENDED CRITERIA FOR BY-RIGHT APPROVAL

Multi-family housing developments, including mixed-use developments, that meet the criteria below would be granted early landmark determination and approved as a matter of right. Staff is requested to recommend specific standards for each of the criteria.

1. Meet the equivalent of LEED Gold standards or similar GreenPoint Rated standards
2. A minimum height equal to the maximum allowed under zoning for the property (The height could exceed the zoning maximum with a density bonus.)
3. Provide bus passes or equivalent
4. For projects within ¼ mile of major transit nodes, a maximum of 1 parking space per 3 units
5. For projects with parking, provide electric-vehicle charging equipment for at least Level 2 charging
6. For projects with parking, provide spaces for car sharing
7. Provide bike parking
8. No increase in net water run-off
9. On-site recycling and composting
10. Local hire requirements for construction workers

The Design Review Committee would be requested to recommend requirements for design, which could include:

1. Stepbacks, stepdowns to neighborhoods
2. Durability standards for materials
3. Requirements for facades, particularly on the first-floor
4. Features that promote streetfront activity
5. Elements that are appropriate from the Downtown Berkeley Design Guidelines

Additionally, staff is requested to add, and adapt as needed, the Green Pathway's early landmark determination process for the new by-right approval system.

## BACKGROUND

It's widely recognized that Berkeley faces a critical shortage of housing, especially affordable housing. Our housing supply has not kept pace with population. Berkeley's population grew 5.5% in 2010-2015, while the housing supply increased by only 1.2%.<sup>19</sup>

The problem is not unique to Berkeley. It is widespread in the Bay Area and in a number of other metropolitan areas around the nation. But identifying and implementing solutions remains largely a local responsibility tailored to local needs and conditions. Nor is the answer simple. The issue needs to be addressed on several fronts with a variety of approaches.

This item would provide an additional method for addressing the problem by granting by-right approval, with early landmark determination, to housing projects that meet certain criteria, particularly those that support the City's Climate Action Plan.

The process would replace the Green Pathway (Chapter 23B.34 of the Berkeley Municipal Code). The Green Pathway provides a by-right approval process, with early landmark determination, for buildings that met specified criteria, but no developers have opted to use it. This new approach would expand the areas where housing could win by-right approval to Berkeley's Priority Development Areas (PDAs) and revise the requirements for projects to qualify for the process.

A PDA is an area that is served by public transit route and that the local community has designated as suitable for increased housing. In Berkeley, the PDAs are the Downtown area, the Southside area (south of the UC Berkeley campus), and the commercial corridors along San Pablo Avenue, University Avenue, Shattuck Avenue south of Dwight Way, and the Martin Luther King Jr. Way/Adeline Street thoroughfare south of Dwight Way.

## FINANCIAL IMPLICATIONS

Additional staff time will be required to develop and oversee the program. City revenues would increase if the program results in additional housing.

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<sup>19</sup> Computed by ABAG from California Department of Finance estimates, presented at the Council's Feb. 16, 2016 Special Meeting on housing

## ENVIRONMENTAL SUSTAINABILITY

Most of the additional elements required to obtain by-right approval for housing would advance the City's Climate Action Plan. In addition, increasing housing density in Berkeley, especially in areas near mass transit, can help reduce commute times and increase use of public transportation, thus decreasing greenhouse gas emissions.

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### **Recommendation 8: Repurpose West Berkeley Service Center**

#### CURRENT SITUATION AND EFFECTS

On January 19, 2016, the Council considered a staff presentation regarding a strategy to upgrade and seismically retrofit a number of City facilities, including the West Berkeley Service Center (WBSC) located at Hearst Avenue and Sixth Street. During the Council discussion it was suggested that instead of expending funds on retrofit and modernization of certain existing facilities, they could be repurposed for higher uses such as affordable housing and expansion of services.

Formerly a senior activity center, the WBSC has been repurposed as a service center that is home to various City programs including Meals for Wheels, Berkeley Black Infant Health (BBIH), and case management for Aging and Public Health Nursing but has no housing component. The WBSC is in close proximity to the Ann Chandler Public Health Center and Lifelong West Berkeley Medical Center. In addition the WBSC is well served by public transit, AC Transit and Amtrak, with easy access to the freeway.

Given the growing demand for aging and senior services and the dearth of sites available for affordable housing development, this location is a prime opportunity site to expand capacity for both elderly services and senior housing similar to the Over 60 Health Center and Mildred Howard Apartments complex in South Berkeley.

#### BACKGROUND

The WBSC is located at 1900 Sixth Street and Hearst Avenue on a 33,000 square foot parcel. The facility currently houses a number of City Health and Human Services programs that are at capacity and require more space.

The current zoning is Mixed Use Residential (MUR) which allows for residential uses of three stories at 35 feet and encompasses the one half block - bounded by Sixth Street, Fifth Street, and Hearst Avenue. The remainder of the block - bounded by Sixth Street, Fifth Street, and University Avenue is zoned Commercial - West Berkeley (CW) which allows for Mixed Use development of four stories at 50 feet or residential development of three stories at 40 feet. The area also borders the University Avenue Priority Development Area zone

This section of University Avenue along the length of Sixth Street to the railroad tracks has been transformed in the past 10 years with major mixed use residential

developments being planned or built along University Avenue and in the Fourth Street shopping area.

#### FISCAL IMPACTS OF RECOMMENDATION

Increase of property value to affected properties.

#### ENVIRONMENTAL SUSTAINABILITY

Allowing higher density mixed use residential bordering the University Avenue priority development area zone will reduce greenhouse gas emissions.

#### RATIONALE FOR RECOMMENDATION

Modifying the zoning for the WBSC increases the opportunity to expand City senior services more efficiently and provide additional capacity for affordable housing.

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### **Recommendation 9: Establish Buffer Zones around Priority Development Areas**

#### CURRENT SITUATION AND EFFECTS

The University Avenue PDA extends along the length of University Avenue from the west side of Martin Luther King Junior Way to Third Street. The San Pablo Avenue PDA extends along its length from the Albany border to the Oakland border. Excluding the Southside area the Telegraph Avenue PDA extends from Dwight Way to the Oakland border. The zoning in all of these areas is Commercial with maximum heights varying between 45 to 50 feet depending on the PDA. The Commercial zoning typically extends to the depth of one half block or approximately 100 feet on average.

Typically Commercial zoning backs onto R-2A zoning which allows maximum heights of 28 to 35 feet. This has created the unintended consequence of allowing 50 to 65 foot structures (when density bonus is included) to back onto residential neighborhoods where development standards are significantly lower creating shadowing, step back, and setback issues that need to be resolved between the abutting properties.

One way to lessen impacts on the abutting residential neighborhoods would be to establish buffer zones with intermediate zoning on the remainder of the half block not covered by the PDA zone. For example one half of the block could incorporate the Commercially zoned PDA (50 feet), the rest of the block could be R-3 to R-5 Multifamily Residential Housing (35-40 feet) decreasing to R-1 to R-2A (28 feet) on the remainder of the block or opposite side of the next street thus allowing a gentler transition into residential neighborhoods.

The Adeline Street and South Shattuck Avenue PDA's are not included in this referral though the concept should be considered as part of the current study underway as part of the Adeline Corridor project.

## BACKGROUND

On June 19, 2007 the City Council approved submittal of an application to the FOCUS program of ABAG and the MTC designating University Avenue, San Pablo Avenue, Telegraph Avenue, Adeline Street, South Shattuck Avenue and Downtown Berkeley as PDAs. Subsequently the Telegraph Avenue PDA was expanded to encompass the area covered by the Southside Plan. These areas are the city's major transit corridors which are the most appropriate locations for future development needed to help alleviate the critical housing shortage the entire city is being confronted by.

With the exceptions of the Downtown and the Southside area of Telegraph Avenue all of the other PDA zones only incorporate the commercial frontages of those areas to the depth of no more than one half block or 100 feet on average.

In the past few years housing prices and rents have skyrocketed. Opportunity sites for housing development have become even more limited as available sites

## FISCAL IMPACTS OF RECOMMENDATION

Increase of property value to affected properties.

## ENVIRONMENTAL SUSTAINABILITY

Creating a transition zone for higher density residential use adjacent to commercial PDA zones will reduce greenhouse gas emissions.

## RATIONALE FOR RECOMMENDATION

Increasing residential density will support commercial activity by enhancing opportunities to create walkable communities adjacent to neighborhood serving businesses.

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### **Recommendation 10: Southside Plan Rezoning Revision**

## CURRENT SITUATION AND EFFECTS

The City is facing a critical student housing shortage. Students are not able to find affordable rental units in proximity to the UC campus. New production of housing has not been able to keep up with the increased demand as new residents, both student and non-student, compete for what few units are available, driving up rents and home values. There is a shortage of undeveloped land available to build new housing so the City must explore other options to increase housing capacity. Efforts must be made to increase the capacity for higher density zoning in the Southside area.

The Planning Commission is currently considering a proposal to increase the height in the C-T district. Increasing the development standards in the RS and R-3 areas would be consistent with past City Council actions.

## BACKGROUND

On September 27, 2011, the City Council adopted the Southside plan after more than eight years of study and review. Prior to adoption of the plan, the allowed zoning was limited to C-T, Telegraph Commercial, and R-4 Multifamily Residential. By adopting the plan, the Council accepted changes to the allowed zoning by including five new zoning areas:

RSMU: Residential – Southside Mixed Use

R-S: Residential - Southside

R-3: Residential Medium Density

R-3H: Residential Medium Density Hillside

R-SH: Residential High Density Hillside

Adopting the new zoning districts resulted in the up-zoning of some areas north of Channing Way to Bancroft Way and downzoned other areas south of Channing Way to Dwight Way.

On April 29, 2014, the Berkeley City Council adopted a resolution increasing the Floor Area Ratio (FAR) in the C-T zoning district to 5.0.

On December 1, 2015, the City Council approved a recommendation from Councilmember Worthington to enable implementation of the FAR increase in the C-T district by amending the zoning ordinance, which is currently being considered by the Planning Commission.

## ENVIRONMENTAL SUSTAINABILITY

Allowing higher density residential housing closer to the UC campus will reduce greenhouse gas emissions.

## RATIONALE FOR RECOMMENDATION

There are limited opportunities to increase housing for students.

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### **Recommendation 11:**

### **Revise Height Limits on Residential Buildings with Ground-Floor Residential Uses in Priority Development Areas outside of the C-DMU**

## BACKGROUND

The City of Berkeley has a handful of Priority Development Areas (PDAs) in order to concentrate future population growth in areas with greater density potential and proximity to transit. PDAs include Telegraph, University, Shattuck, Adeline, and San Pablo Avenues as well as the Southside Area. Aside from the Southside, these PDAs

are all located in Berkeley's commercial zoning districts where in most cases, both residential and mixed-use developments are allowed, but height limits for these buildings do not correspond.

In an effort to increase business activity in our PDAs while also tackling our city's housing crisis, the City can look into creating a uniform height limit for both types of developments in our Priority Development Areas. This will allow those residential buildings in PDAs and outside of C-DMU that have ground-floor housing to be subject to the greater height limit currently granted only to mixed-use developments. More residential development could lead to a density sufficient enough to sustain local businesses by neighborhood patronage alone.

According to the latest Office of Economic Development Field Research report, ground-floor commercial vacancy rates in PDAs are still way above the 2015 Q3 average of 5.9%.<sup>20</sup> University Avenue has a vacancy rate of 10.1% IN 2015 Q3, only a .8% decline since 2010 Q1. San Pablo Avenue has experienced an average annual increase in vacancy rate of .19% and its current 2015 Q3 7.3% vacancy rate represents a 1.4% increase since 2014 Q4. Telegraph's vacancy rate has been steadily declining since the Great Recession from its height of 17.2%, but its current rate of 7.1% is still above the citywide average. This is compared to the vacancy rates that are not covered by this change—Elmwood (2%), North Shattuck (2.1%), Solano (3.5%), and West Berkeley (3.3%).

#### FINANCIAL IMPLICATIONS

Not Applicable

#### ENVIRONMENTAL SUSTAINABILITY

Berkeley's neighborhood commercial districts enable city residents to shop and dine locally. Robust retail districts can potentially reduce carbon emissions by reducing the need for residents to travel outside their immediate neighborhood or beyond the City limits and can reduce trips by car.

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### **Recommendation 12**

### **Support an Alameda County Housing Bond for the November 2016 Ballot**

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<sup>20</sup> [http://www.ci.berkeley.ca.us/uploadedFiles/Manager/Economic\\_Development/2015-12-15%20Work%20Session%20Presentation\(1\).pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Manager/Economic_Development/2015-12-15%20Work%20Session%20Presentation(1).pdf)



## BACKGROUND

Berkeley faces a critical shortage of housing, especially affordable housing. Our housing supply has not kept pace with population. Berkeley's population grew 5.5% in 2010-2015, while the housing supply increased by only 1.2%.<sup>21</sup>

The increasingly severe housing shortage has fed steep rises in rents and home prices far beyond the pace of inflation. Berkeley's median rent jumped by nearly \$400, or 12%, in just the past year, to \$3,584, while the median sales price of homes rose even faster, 15% over the past year, to \$974,000, according to Zillow data cited in a Feb. 16 City staff report. Under federal guidelines allocating 30% of household income to housing costs, a renter household would need to earn an annual income of \$143,360 to afford a median-rent unit.

Berkeley's housing crisis does not exist in a vacuum. It is part of a problem that plagues the larger region, including Alameda County. In such cases, a coordinated regional approach can result in the most effective and efficient delivery of solutions.

Like Berkeley, the County's population centers don't have enough housing, and what we do have is rapidly becoming too expensive for lower- and moderate-income households. Even without the statistics, the impacts are evident to most residents and those who seek housing in the County. Our ethnic and economic diversity is being eroded as lower- and moderate-income households are displaced or priced out. Many of the people face long commutes. For those who cannot rely on public transportation, longer commutes generally mean more greenhouse gas emissions from automobiles.

A number of local stakeholders involved in housing policy have been holding discussions and meetings on how to address the problem, and one potential solution that received support from many quarters is a substantial housing bond that would support affordable housing.

## FINANCIAL IMPLICATIONS

Could be substantial depending on the amount of the bond

## ENVIRONMENTAL SUSTAINABILITY

Building more housing in the most housing-deprived areas can enable people to live closer to where they work, thus reducing commute mileage and greenhouse gas emissions.

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<sup>21</sup> Computed by ABAG from California Department of Finance estimates, presented at the Council's Feb. 16, 2016 Special Meeting on housing

**Recommendation 13:  
Create a Citizens Task Force on Condominium Ownership Housing**

**BACKGROUND**

According to a November 17, 2015 Staff Condominium Conversion Annual Report,<sup>22</sup> “In 1992, the City imposed a housing mitigation fee for condominium conversions and banned the creation of Tenancy-in-Common (TIC) properties. Council found TIC ownership problematic and the conversion of rental units to condominiums and TICs reduced the stock of affordable rental units in Berkeley. In a TIC, people share ownership and financing of multi-unit properties and agree among themselves on each part-owners’ rights to occupy one unit, often expressed as pro rata shares of property ownership. Some owners of these TIC properties developed legal and financial difficulties among their partners. They sought help from the City Council and Council banned the creation of TICs as a result of those issues. The 1992 mitigation fee for condominium conversions recaptured the entire difference in affordability that resulted from conversion and accrued to the City’s Housing Trust Fund to help finance construction and rehabilitation of permanently affordable housing. This large fee had the deliberate effect of *discouraging* conversions.

In 2004, California’s Court of Appeals held that cities could not prohibit the conversion of rental units to TICs<sup>23</sup>. City Council found that while condominium conversions were not ideal, a condominium conversion ordinance was preferred over unregulated TIC conversions. Council thus changed the ordinance to encourage condominiums over TICs but continued to change the ordinance nine more times between 2005 and 2007. The piecemeal nature of the adjustments made the Condominium Conversion Ordinance (CCO) difficult for applicants to understand, thus leading to a complete Council overhaul of the ordinance and application process in 2008 and the AHMF structure in 2009.”

**Attachment 1  
Summary Tables for the Condominium Conversion Program**

The tables below provide data on calendar years 2008-2015 (up to September 10, 2015). Data prior to 2008 are difficult to compile and analyze due to changes in the process and definitions.

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<sup>22</sup> <http://www.ci.berkeley.ca.us/recordsonline/export/16883656.pdf>

<sup>23</sup> Tom v. City and County of San Francisco, 2004, 120 Cal. App. 4th 674.

**Table 1: General Summary for Calendar Years 2008-2015**

Year	Number Submitted Applications <sup>24</sup>	Number of Units in Submitted Applications	Number of Approved Applications <sup>25</sup>	Number of Units in Approved Applications	Number of Approved Units Required to Pay Mitigation Fee <sup>26</sup>
2008	10	35	8	26	5
2009	5	24	13	66	66
2010	7	20	4	19	19
2011	5	22	3	11	6
2012	5	15	6	20	12
2013	6	1	7	15	15
2014	2	7	3	11	11
2015*	1	2	2	7	7
<b>Total</b>	<b>41</b>	<b>140</b>	<b>46</b>	<b>175</b>	<b>130</b>

While 100 units are allowed to be converted per year, only 175 units have been converted since 2008, an average of about 22 per year. Homeownership programs often target moderate-income households, for which affording rent in Berkeley is becoming increasingly burdensome. With Berkeley’s median home price for single-family homes hitting \$1.050 million at the end of 2015’s second quarter,<sup>27</sup> the dream of homeownership in Berkeley is becoming harder to realize. It is important to examine ways to help low- and moderate-income households, especially young families and first-time homebuyers, while also minimizing displacement.

<sup>24</sup> An application is deemed submitted when the subdivision map (or step three in the older process) is submitted.

<sup>25</sup> An application is deemed approved when the City takes the final action to approve a final subdivision map.

<sup>26</sup> Ordinances before 2009 contained sliding scale fee reductions for some owner-occupants so it is unknown whether these owners will have to pay the mitigation fee. Most of these owners expressed their intentions to reside in their units long enough to reduce the fee to \$0 so these units were not counted in this category.

<sup>27</sup> <http://blog.sfgate.com/ontheblock/2015/09/28/berkeley-median-home-price-hits-all-time-record/>

FINANCIAL IMPLICATIONS

Staff time and possible condominium-conversion revenues.

ENVIRONMENTAL SUSTAINABILITY

Not applicable.

CONTACT PERSON

Mayor Tom Bates                      510-981-7100

Additional Information

1: Residential Condominium Conversion Packet, City of Berkeley Planning & Development Department (Updated 6/25/15)

[http://www.ci.berkeley.ca.us/uploadedFiles/Online\\_Service\\_Center/Planning/Condo%20Conversion%20Application%20Packet%20updated%20080210.pdf](http://www.ci.berkeley.ca.us/uploadedFiles/Online_Service_Center/Planning/Condo%20Conversion%20Application%20Packet%20updated%20080210.pdf)

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Attachments:

- 1) Housing Element
- 2) Emeryville Impact fee figures
- 3) Height Limits in PDAs
- 4) University Ave Overlay
- 5) Berkeley PDAs map
- 6) OED Commercial Districts & Vacancy Rates
- 7) Resolution