



Office of the City Manager

PUBLIC HEARING
April 29, 2025

To: Honorable Mayor and Members of the City Council
From: Paul Buddenhagen, City Manager
Submitted by: Jordan Klein, Director, Planning and Development Department
Subject: Zoning Ordinance and General Plan Amendments Relating to Middle Housing

RECOMMENDATION

Conduct a public hearing, and upon conclusion:

1. Adopt an ordinance amending Berkeley Municipal Code Title 23 (Zoning Ordinance) and the Zoning Map, for the purposes of encouraging development of “middle housing” in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R (“low-density residential districts”), with an effective date of September 1, 2025; and
2. Adopt a Resolution amending the General Plan for the same purpose.

SUMMARY

The proposed ordinance (**Attachment 1**) includes zoning changes to encourage the development of Multi-Family Residential Uses in the R-1, R-1A, R-2, R-2A and MU-R zoning districts, as directed by City Council at its meeting on July 23, 2024, and recommended by the Planning Commission. The proposed changes include:

- Permitting Single-Family Residential and Multi-Family Residential uses with a Zoning Certificate (ZC).
- Consolidating the R-1A and R-2 zoning districts.
- Revising development standards related to building height, lot coverage and setbacks, to permit larger residential buildings.
- Establishing new minimum and maximum density standards.
- Revising requirements related to Residential Additions and additional bedrooms;
- Regulating the size of new single-family homes on a single lot.
- Permitting demolition of single-family homes with a ZC if they are part of a project that includes a net increase in units.
- Authorizing the Zoning Officer to attach Standard Conditions of Approval to projects approvable with a ZC.

To provide adequate time for staff to prepare the necessary forms, public information materials, and internal processes needed to implement the proposed ordinance, as well as to conduct staff training and update the Fee Schedule, staff recommends an effective date for the proposed ordinance of September 1, 2025.

FISCAL IMPACTS OF RECOMMENDATION

The proposed zoning changes are intended to increase the development potential of properties in low-density residential districts. This could result in higher property tax revenues. Additionally, the Berkeley Unified School District Facilities Fee could be expected to generate increased revenues.¹ However, the proposed zoning changes also include revisions that would streamline project approvals, which could reduce staff review times and accompanying fees.

CURRENT SITUATION AND ITS EFFECTS

In January 2023, the City Council adopted the 2023-2031 Housing Element Update. The Housing Element Update includes Program 29—Middle Housing, in which the City Council committed to amend the zoning code to allow multi-unit development on single lots in the low-density residential districts.

City Council Meeting – July 23, 2024

At its meeting on July 23, 2024 (**Attachment 3**), the City Council held a public hearing to consider the Planning Commission's recommendation for an ordinance amending Title 23 to facilitate the production of middle housing in low-density residential districts. Upon conclusion of the public hearing, City Council provided the following direction to staff:

- Prepare a Middle Housing Zoning ordinance that:
 - Exempts the Hillside Overlay Zone and Environmental Safety-Residential (ES-R) zoning district;
 - Includes a maximum density per acre standard;
 - Regulates the size of one new primary unit on a lot;
 - Establishes a maximum height standard of 35 feet or 3 stories;
 - Establishes setback standards that require the sum of the front and rear setbacks to be at least 20 feet, with a minimum of five feet in the front and five feet in the rear; and
 - Includes neighborhood noticing requirements.

¹ \$5.17 per square foot for new residential development and residential additions resulting in an increase of assessable space in excess of 500 square feet, and \$0.84 per square foot for new commercial and industrial spaces.

- Perform a thorough General Plan analysis to ensure that the proposed zoning amendments are consistent with the General Plan, and bring forward any necessary amendments;
- Provide the opportunity for community workshops throughout the city; and
- Provide the following information in a revised staff report:
 - An analysis of how the proposed zoning amendments interface with the Mini-Dorm ordinance and the potential for more mini-dorm configurations; and
 - An analysis of how the proposed zoning amendments conform to the Demolition Ordinance.

In addition, this staff report includes additional information on other topics raised by City Council at its July 23, 2023 meeting, including:

- Charging stations;
- Land value recapture;
- Review of the original City Council referrals on Middle Housing; and
- Middle Housing and affordable housing.

Revised Middle Housing Zoning Ordinance

Table 1 summarizes the proposed zoning amendments, along with a brief rationale for each change. Many of the proposed amendments in Table 1 were presented to City Council at its July 23, 2024 meeting. The rightmost column (“Changes from July 2024 Meeting”) identifies sections of the Ordinance that were revised to respond to City Council direction from the July 23, 2024 meeting **in bold**. Entirely new sections are also indicated **in bold**.

An annotated version of the proposed ordinance, which indicates the rationale for each change in the ordinance itself, is included as **Attachment 2**.

TABLE 1 SUMMARY OF PROPOSED MIDDLE HOUSING ZONING AMENDMENTS

Ord. Sect.	BMC Section & Title	Description of Changes	Rationale	Changes from July 2024 Meeting
Title 23, Division 1 – General Provisions				
1	23.108.020 Zoning Districts	- R-1A district removed. - R-1, R-2, and R-2A renamed.	Conforming edits.	No changes.
Title 23, Division 2 – Zoning Districts				
2	23.202.020 Allowed Land Uses Table	- R-1A district removed; - Two-Family land use type removed. - Multi-Family Residential land use type revised. - Single Family and Multi Family Residential permitted with a ZC in the R-1, R-2, and R-2A zoning district. - Supportive housing and low barrier navigation centers permitted with a ZC in the R-1 zoning district.	Permitting middle housing by-right. Compliance with State law (Gov. Code § 65651)	Maintains UP(PH) requirements in the Hillside Overlay. Includes new references to noticing requirements and size limitations on single-family homes.
3	23.202.030 Additional Permit Requirements	All Residential Additions permitted with a ZC in R-1, R-2 and R-2A zoning districts.	Promoting middle housing.	No changes.
4	23.202.030 Additional Permit Requirements	- R-1A district removed. - All requirements for additional bedrooms removed.	Conforming edit. Promoting middle housing.	New exemption added to reflect state law requirements (AB 916)
5	23.202.040 Additional Permit Requirements	Restrictions on the size of new single-family dwellings on one lot. Noticing requirements for new dwelling units.	Per City Council direction at July 23, 2024 meeting	New section.

6, 7	23.202.050 R-1 Title and District Purpose	• R-1 renamed. • District purpose revised.	Clarifying that R-1 is not a single-family only district.	No changes.
8, 9	23.202.050 R-1 Development Standards	• Development standards revised: ○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum and maximum density. ○ Open space.	Promoting middle housing.	Provides separate development standards for inside and outside Hillside Overlay Zone. Includes updated height, setback and maximum density standards.
10	23.202.060 R-1A District	• R-1A district removed.	Merging of R-1A and R-2 zoning districts.	No changes.
11, 12	23.202.080 R-2 Title and District Purpose	• R-2 district renamed. • District purpose revised.	Conforming edit.	No changes.
13	23.202.080 R-2 Development Standards	• Development standards revised. ○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum and maximum density. ○ Open space.	Promoting middle housing.	Provides separate development standards for inside and outside Hillside Overlay Zone. Includes updated height, setback and maximum density standards
14, 15	23.202.090 R-2A Title and District Purpose	• R-2A district renamed. • District purpose revised.	Conforming edit.	No changes.
16	23.202.090	• Development standards revised.	Promoting middle housing.	Provides separate

	R-2A Development Standards	○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum and maximum density. ○ Open space.		development standards for inside and outside Hillside Overlay Zone. Includes updated height, setback and maximum density standards
17-34	Various	• Renumbering.	Renumbering.	No changes.
35	23.204.020 Allowed Land Uses in the Commercial Districts	• Revising residential use type titles.	Conforming edits.	No changes.
36	23.206.020 Allowed Land Use in Manufacturing Districts	• Two-Family land use type removed. • Multi-Family Residential land use type revised. • 100% residential projects permitted with a ZC in the MU-R district.	Permitting middle housing by-right in the MU-R.	No changes.
37	23.206.030 MU-R Additional Permit Requirements	• Allow Major Additions with a ZC. • Provisions conditioning residential uses in the MU-R district removed • Noticing requirement for new units.	Permitting middle housing by-right in the MU-R.	Noticing requirement for new units added.
38	23.206.090 MU-R Development Standards	• Development standards revised. ○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum and maximum density.	Promoting middle housing.	Maximum density standard added.

		○ Open space.		
39	23.210.020 Hillside Overlay Zone Development Standards	• R-1A district removed;	Conforming edit.	No changes.
Title 23, Division 3 – Citywide Provisions				
40	23.304.030 Setbacks	• R-1A district removed.	Conforming edit.	No changes.
41	23.304.030 Allowed Setback Reductions	• R-1A district removed. • Revised minimum setback with reduction to 4 feet in the R-2 and R-2A zoning districts. • Setback reduction allowed on smaller lots.	Conforming edits.	Provision added to permit reduced rear setback requirements on small lots.
42	23.304.040 Permits Required for Building Separation	• R-1A district removed.	Conforming edit.	No changes.
43	23.322.100 On-site Loading Spaces	• R-1A district removed.	Conforming edit	No changes.
44	23.324.050 Conforming and Nonconforming Structures or Buildings	• Provision added to allow a residential addition to a single-family home in the R-2A without triggering minimum density requirement of two units.	Encourage adding living space to existing dwelling units.	New provision.
45	23.326.030 Eliminating Dwelling Units through Demolition	• Dwelling Unit corrected to Residential Unit	Technical edit added during ordinance review.	New technical edit.
46	23.326.030 Eliminating Dwelling Units through Demolition	• Demolition of single-family dwellings permitted with a ZC, if project results in increased density.	Promoting middle housing.	No change

Title 23, Division 4 – Permits and Administration				
47	23.406.020 Zoning Certificates	• Authorizes Zoning Officer to attach Standard Conditions of Approval to projects approvable with a Zoning Certificate.	Ensuring compliance with existing regulations.	New provision, recommended by Planning Commission
Title 23, Division 5 – Glossary				
48	23.502.020 Defined Terms	• Revised definition of Multi-family Dwelling from three or more units to two or more units. • Define Multi-Family Residential land use type.	Promote middle housing. Conforming edit.	Language added to clarify that definition does not include ADUs or JADUs.
49		• Remove definition of rear main building. • Renumbering	Conforming edit.	No change.
50		• Add Single-Family Residential land use type.	Conforming edit.	Language added to clarify that definition does not include ADUs or JADUs.
51		• Remove definition of Two-Family Dwelling.	Conforming edit.	No changes.
Administrative Provision				
52		• Set an effective date of the Ordinance of September 1, 2025	Implementation.	Provide time for staff training and developing administrative processes.
Zoning Map				
Att. A	Zoning Map	• Replace all R-1A zone labels with R-2.	Conforming edit.	No changes.

Descriptions and discussion of items indicated in Table 1 as “no changes” are included in the staff report for City Council’s July 23, 2024 meeting (**Attachment 3**). New provisions—those that are bolded in Table 1—are described below.

Permits and Levels of Discretion (Attachment 2, Section 1)

Current Policy: Table 2 includes the current permit requirements in the low-density residential districts for residential projects that include dwelling units.

TABLE 2 CURRENT PERMIT REQUIREMENTS

	R-1	R-1A	R-2	R-2H	R-2A	MU-R
Single-Family	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP
Two-family	NP	UP(PH)	UP(PH)	NP	UP(PH)	AUP
Multi-Family	NP	NP	UP(PH)	NP	UP(PH)	AUP or UP(PH)
AUP: Administrative Use Permit; UP(PH): Use Permit with a Public Hearing; NP: Not Permitted						

Proposed Standard: The proposed zoning amendments would combine Two-Family and Multi-Family Residential uses into a single Multi-Family Residential use type, which would apply to all projects with two or more units.

Single-Family or Multi-Family Residential projects located outside of the Hillside Overlay Zone that comply with all objective standards would be permitted with a ZC; no discretionary permit or public hearing would be required. The proposed standards would not change any permit requirements for Group Living Accommodation or Mixed-Use Residential uses in these zones.

Proposed residential projects in the R-1H, R-2H, and R-2AH zoning districts would continue to be subject to a UP(PH) requirement. Note that Multi-Family Residential uses in the R-2H zoning district would not be permitted, per BMC Section 23.210.020(B)(2).²

Table 3 summarizes the recommendation:

TABLE 3 PROPOSED PERMIT REQUIREMENTS

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

² 23.210.020(B)(2): *Multiple Dwellings in R-2*. When the H overlay zone is combined with the R-2 district, multiple dwellings on a single property are not permitted.

Additional Bedrooms (Attachment 2, Section 4)

As presented to City Council at its July 23, 2024 meeting, the proposed zoning amendments would remove additional permit requirements for bedrooms that are added to existing dwellings or lots developed with existing residential uses. Currently, BMC Section 23.202.030 requires an Administrative Use Permit (AUP) when adding a fifth bedroom to a lot, and a UP(PH) for adding any bedroom beyond the fifth to a lot. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, requiring a discretionary review process for an additional bedroom would discourage the conversion or adaptive reuse of existing buildings. Accordingly, additional permit requirements for adding bedrooms in the R-1, R-2, and R-2A zoning districts were removed.

In preparing the revised ordinance, staff has included new language regarding additional bedroom requirements, per AB 916, which restricts local jurisdiction's ability to limit or control additional bedrooms.

Restrictions on Size of Single-Family Dwellings on a Single Lot (Attachment 2, Section 6)

At its meeting of July 23, 2024, the City Council directed staff to prepare new ordinance amendments to include restrictions on the size of new single-family dwellings on a single lot. The intention of the provision is to avoid encouraging large single-family homes under the new proposed development standards that streamline residential approvals and permit more development on a lot.

The City Council's direction included limiting the size of new single-family homes on a single lot to 2,500 square feet, or 50% of the lot area, whichever is larger. In addition, the City Council direction included a provision to exceed these size limitations with an AUP. To issue an AUP, specific findings must be made, and this section includes findings tailored to the policy intent of generally avoiding large single-family homes while permitting larger single-family homes in specific cases.

Noticing Requirements (Attachment 2, Sections 6 and 38)

At its meeting of July 23, 2024, the City Council directed staff to prepare new ordinance amendments to include noticing requirements for residential projects that could be approved with a ZC. The proposed zoning amendments include these requirements, which are modeled on the current neighborhood notification requirements for ADUs, and would apply to projects proposed in the low-density residential districts. There are no proposed changes to existing requirements for projects proposed on lots in the Hillside Overlay district.

Development Standard Revisions

The following sections of this report summarize changes to the development standards in the low-density residential districts. The proposed development standards reflect the overall goals of City Council's referrals and Program 29-Middle Housing of the Housing Element to a) permit more development on a lot; and b) be based on objective standards that cannot be modified with additional permits or discretionary processes.

Per City Council direction from the July 23, 2024 meeting, the proposed zoning amendments include separate development standards tables for parcels within and outside of the Hillside Overlay Zone.

Existing and proposed development standards are summarized in tables in **Attachment 4**.

Density Standard (Attachment 2, Sections 9, 13, 16, and 39)

Current Policy: The Berkeley Municipal Code does not include any minimum or maximum density standards for the 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 4 summarizes the proposed density standards expressed in units per acre, and includes the number of units that may result from those standards on a typical 5,000 square foot lot in each zone. These density standards would not apply to lots in the Hillside Overlay Zone.

The minimum density standards included in Table 4 are the same as those presented to the City Council at their meeting of July 23, 2024. The maximum density standards reflect the City Council's direction to staff from that meeting.

TABLE 4 PROPOSED DENSITY STANDARDS

	R-1	R-2	R-2A	MU-R
Minimum Density (DU/acre)	10	10	20	20
Maximum Density (DU/acre)	40	50	60	60
Resulting units on a 5,000 sf lot				
Minimum Units	1	1	2	2
Maximum Units	5	6	7	7

The proposed density standards do not include any eligible Accessory Dwelling Units (ADUs) or Junior ADUs.

Building Height (Attachment 2, Sections 9, 13, 16, and 39)

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 without the need for an additional AUP. Current policy also limits the height of Residential Additions to 14 feet, with a possible increase to 35 feet with an AUP.

Proposed Policy: Per City Council direction at the July 23, 2024 meeting, the proposed development standard for maximum building height for parcels outside the Hillside Overlay zone would be 35 feet. As presented to the City Council at the July 23, 2024 meeting, maximum height would be restricted to 22 feet in the rear 15 feet of a lot. Existing height standards within the Hillside Overlay Zone would be unchanged.

Minimum Setbacks (Attachment 2, Sections 9, 13, 16, and 39)

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-1A, and R-2 zoning districts, and 15 feet in the R-2A zoning district.

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% of the lot's 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 and R-2A districts. Interior side setbacks can be reduced to 3 feet (or 5 feet) with a ZC.

In the MU-R district, lots adjacent to a residential district must provide an interior side setback of either 10 feet or 10% of the lot's 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 and R-1A districts, 10 feet in the R-2 district, and vary by height in the R-2A district (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% of the lot's width, whichever is less. There are no other street side setback requirements in the MU-R.

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

Proposed Policy: The proposed development standards are summarized below and would only apply to parcels outside of the Hillside Overlay Zone. There would be no changes to setback requirements for parcels located in the Hillside Overlay zone.

- Front and Rear Setbacks: Per City Council direction at the July 23, 2024 meeting, the minimum required front and rear setbacks would be 5 feet. Additionally, the front and rear setbacks would be required to add up to at least 20 feet. The intention of this policy is to provide flexibility for the placement of structures on a lot, while controlling overall bulk.
- Interior and Street Side Setbacks: The side setbacks in the R-1, R-2 and R-2A zoning districts would be 4 feet. The MU-R would maintain its existing regulations. The proposed standards would also remove existing interior setbacks that increase at upper stories. These existing standards not only reduce available square footage for residential uses, but also result in buildings that are designed with a layered “wedding cake” appearance. These side set back standards are unchanged from the standards presented to the City Council at its July 23, 2024 meeting.

The proposed amendments also include revisions to BMC Section 23.304.030 related to permitted setback reductions. Language was added to permit a reduction in the rear setback on lots that are less than 100 feet in depth.

Conforming and Nonconforming Structures or Buildings (Attachment 2, Section 45)

Current Policy: BMC Section 23.324.050(D) includes provisions related to nonconforming structures and requires a Use Permit for a residential addition to that exceeds the maximum allowed lot coverage, floor area ratio, or residential density.

Proposed Policy: The proposed zoning amendments include a minimum density standard in the R-2A zoning district, which would require two units on a typical 5,000 square foot lot. Under current policy, an application for a residential addition to an existing single-family dwelling in the R-2A zoning district could trigger the minimum density requirement, which could result in requiring an applicant to add a unit to their parcel. To avoid this, language is added to this Section to allow an addition to a single-family dwelling in the R-2A zoning district without triggering a minimum density requirement of two units.

Demolition of Single-Family Structures (Attachment 2, Sections 46 and 47)

The proposed zoning amendments include a technical change to the recently-adopted amendments to the Demolition Ordinance. In one section, the phrase “dwelling unit” was used, when the phrase “residential unit” should have been used. The proposed

zoning amendments have provided an opportunity for City Council to consider this technical change.

Standard Conditions of Approval for Zoning Certificates (Attachment 2, Sections 46 and 47)

Current Policy: Berkeley Municipal Code (BMC) Chapter 23.404.050 (Public Hearings and Decisions) authorizes the City of Berkeley to attach “reasonable conditions to any discretionary permit that it deems reasonable and necessary to achieve consistency with the General Plan and the Zoning Ordinance, as well as to promote public health, safety and welfare.” A discretionary permit includes an Administrative Use Permit (AUP) or a Use Permit Public Hearing (UPPH).

A Zoning Certificate (ZC) is a *ministerial approval* and projects approvable with a ZC are thereby not subject to the conditioning authority granted by BMC Chapter 23.404.050. A ZC application is reviewed to verify compliance with the Zoning Ordinance, and if the project complies with all applicable requirements, the application is approved. To subject a ZC application to Standard Conditions of Approval, they must be included, or referenced, within the BMC. At its meeting of March 5, 2025, the Planning Commission recommended that the City Council adopt the following amendment (redlined) to the Zoning Ordinance:

E. Review and Action.

1. The Zoning Officer shall review a Zoning Certificate application to verify compliance with the Zoning Ordinance. If the project complies with all applicable requirements, the Zoning Officer shall approve the application.
2. The Zoning Officer may attach to the Zoning Certificate project plans and other information as needed to document project compliance with the Zoning Ordinance.

3. The Zoning Officer may attach to the Zoning Certificate any applicable uniformly applied Standard Conditions of Approval.

Glossary (Attachment 2, Sections 49 and 51)

The proposed zoning amendments include two technical changes to the definitions of Single-Family Residential and Multi-Family Residential land uses. The revisions clarify that neither of these definitions include ADUs or JADUs.

General Plan Review

At its meeting of July 23, 2024, City Council directed staff to revise the Planning Commission's recommendation, and, among other actions, directed staff to perform a review of the General Plan to ensure that the City Council's recommendation was consistent with the General Plan. Staff performed the review and identified additional General Plan amendments, which were presented to the Planning Commission at their October 9, 2024 meeting, per BMC Section 22.04.020.

To ensure conformance between the General Plan and the City Council's recommendation, staff are proposing amendments to the text of the Introduction, Land Use Element, and Urban Design and Preservation Element of the General Plan, as well as amendments to the General Plan map (***Attachment 5***).

The tables below summarize the proposed amendments.

Table 5 summarizes the General Plan amendments considered by the Planning Commission at its October 9, 2024 meeting. Two of the amendments are the same as those considered by the City Council at its July 23, 2024 meeting, and three are similar to amendments considered at that meeting, but are revised based on the City Council's direction.

Table 6 summarizes General Plan amendments that have not been considered by the City Council and are presented here for the first time.

The amendments are discussed in greater detail below.

Table 5 General Plan Amendments Summary – Reviewed July 23, 2024

	Element and Section of General Plan	Summary	Rationale
	NO CHANGE FROM JULY 23, 2024 CITY COUNCIL MEETING		
1	Policy LU-7 Neighborhood Quality of Life (Land Use Element)	Removes mention of R-1A	Zoning ordinance amendments merge R-1A and R-2.
2	Low Medium Density Residential Land Use Classification (Land Use Element)	Removes this Land Use Classification	Zoning ordinance amendments merge R-1A and R-2, and R-2 is now more typical of the Medium Density Residential classification.

3	General Plan Map	Revised to remove Low Medium Density Residential Land Use Classification.	Conformity with General Plan text amendments.
REVISED FROM JULY 23, 2024 CITY COUNCIL MEETING			
4	Lower Density Residential Land Use Classification (Land Use Element)	Revisions to density and development standards. Renaming.	Changed to reflect City Council recommendation of July 23, 2024.
5	Medium Density Residential Land Use Classification (Land Use Element)	Revisions to density and development standards. Renaming.	
6	Mixed-Use Residential Land Use Classification	Revision of height standard.	

Table 6 General Plan Amendments Summary – New Amendments

	Element and Section of General Plan	Summary	Rationale
7	Encourage Infill Development (Introduction)	Adds language to note State law requirements, the Housing Element, and encouraging infill in low-density neighborhoods.	Changed to reflect City Council recommendation of July 23, 2024.
8	Improve Citizen Participation (Introduction)	Adds language acknowledging State and local policies that mandate timely review of housing projects.	Changed to reflect City Council recommendation of July 23, 2024, particularly permitting residential development with a ZC.
9	Page LU-3 (Land Use Element)	Revises language to include areas “in proximity” to transit corridors.	The Middle Housing zoning amendments encourage residential development in areas proximate to transit, not just on parcels <i>on</i> transit corridors.
10	Page LU-4 (Land Use Element)	Revises language to encourage “zoning development standards that are consistent with historic development patterns that include smaller multi-family dwellings on a	The Middle Housing zoning amendments change existing development standards

		single lot” in place of “maintaining existing zoning.”	in residential neighborhoods.
11	Policy UD-22 Regulating New Construction and Alteration (Urban Design and Preservation Element)	Remove section that requires Use Permits for all residential projects “to enable the imposition of area sensitive conditions.”	The Middle Housing zoning amendments permit residential projects with a ZC and establish objective standards.

General Plan Amendments: Previously Considered by City Council

1. Policy LU-7 Neighborhood Quality of Life (Land Use Element)

The proposed zoning amendments would merge the R1-A and R2 zoning districts. This proposed amendment to the Land Use Element removes a mention of the R-1A zoning district. There are no other proposed changes to this section.

This proposed amendment was included in the agenda packet for City Council’s July 23, 2024 meeting.

2. Low Medium Density Residential Land Use Classification

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

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

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

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

These proposed amendments were included in the agenda packet for City Council's July 23, 2024 meeting.

3. General Plan Map Amendments

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

These proposed map amendments were included in the agenda packet for City Council's July 23, 2024 meeting.

4.-6. Land Use Classification Amendments: Revision of Standards and Renaming

The Land Use Element of the General Plan includes descriptions of each of the General Plans Land Use Classifications. These descriptions include information about the typical zoning districts covered by the Classification, as well as summary information about typical population densities, typical residential densities, and height standards within the Classification.

The proposed General Plan amendments include revisions to three of the Land Use Classification descriptions to reflect the projected population densities, the permitted residential densities, and the permitted height standards in the City Council's recommendation, as well as the new names for the zoning districts.

The City Council reviewed similar amendments at its July 23, 2024 meeting, which reflected the development standards included in the Planning Commission's recommendation. The proposed General Plan amendments differ, in that they reflect the City Council's recommendation from its July 23, 2024 meeting.

General Plan Amendments, Pursuant to City Council's July 23, 2024 Meeting

7. Encourage Appropriate Infill Development (Introduction)

This section in the Introduction summarizes the General Plan's approach to infill development, and includes some statements that are incompatible with the Middle Housing zoning ordinance amendments. For example, this section states that the General Plan leaves in place most development standards and zoning created and implemented through previous area plan policies. In fact, the Middle Housing zoning ordinance amendments include significant changes to existing zoning, particularly when compared to the zoning in place at the time of the adoption of the General Plan. Additionally, this section includes the intent that zoning will encourage housing in the Downtown and along the city's transit corridors, but will not encourage new infill housing in traditionally residential neighborhoods.

The proposed General Plan amendments include statements that infill would also be encouraged in traditionally low density residential neighborhoods, and that State law

changes and the adopted Housing Element are also factors that influence infill development in the city. The changes also include removal of the intent to leave in place development standards and zoning in existing residential areas.

8. Improve Citizen Participation (Introduction)

This section in the Introduction summarizes the General Plan's approach to citizen participation, and includes statements that citizens should be involved in decisions about "anything" that will have an impact on them and their neighborhoods, and that the General Plan mandates "maximum citizen involvement" in all public planning.

The proposed General Plan amendments include modifications to these statements to note that citizen involvement should be maximized "within the context of local and State policies and legal requirements that encourage and mandate the timely review of residential development projects." The Middle Housing zoning amendments include provisions to allow residential development with the Zoning Certificate, which is a ministerial action, and the proposed General Plan amendments reflect the fact that this policy would be in place with adoption of the Middle Housing zoning amendments.

9. Page LU-3: Transit Corridors

This section of the Land Use Element notes that additional housing development should be encouraged on underutilized sites within the major transit corridors and Downtown. The proposed General Plan amendments include language that clarifies that housing is to be encouraged on sites within and in proximity to high-quality transit corridors. This reflects broader land use policies regarding transit proximity of new development, as well as including the phrase "high-quality transit corridor" that is common in State law and other local regulations.

10. Page LU-4: Zoning Standards

This section of the Land Use Element describes the intention to maintain existing zoning and development standards in residential areas, and to encourage new housing only along transit corridors and in Downtown.

The Middle Housing zoning amendments include changes to the residential development standards in place at the time of the adoption of the General Plan, but also encourage development that is consistent with historic development patterns in Berkeley that include smaller multi-unit structures. The proposed General Plan amendments include statements to this effect, and also specify that high-density residential development, not all residential development, should be focused along transit corridors.

11. Policy UD-22 Regulating New Construction and Alteration

This section of the Urban Design and Preservation Element states that the intention of the General Plan is to continue to require Use Permits and public hearings for all residential projects.

The proposed Middle Housing zoning amendments—as well as various housing development projects permitted under different state laws, such as SB 9 and AB 2011—allow residential development with a Zoning Certificate. Accordingly, the proposed General Plan Amendments remove the section that includes the requirement for Use Permits for all residential projects.

Tribal Consultation and Other California Government Code Requirements for General Plan Amendments

California Public Resources Code § 65352.3 – 65352.4 (Senate Bill 18) requires local governments to conduct meaningful consultation with California Native American tribes on the contact list maintained by the Native American Heritage Commission (NAHC) prior to the adoption or amendment of a city or county general plan, for the purpose of protecting cultural places on lands affected by the proposal.

On July 22, 2024, a letter was sent to the NAHC requesting a current SB 18 Native American Contact List for the vicinity of the project area. The NAHC provided the Contact List on August 5, 2024 and letters were sent to all Tribes included on the NAHC Contact List describing the proposed project and offering consultation, on August 8, 2024. SB 18 provides a 90-day timeframe in which a Tribe can request consultation, which ended on November 6, 2024.

On September 6, 2024, the City received an email from the Confederated Villages of Lisjan, requesting additional information and consultation. Planning Department staff responded to the request on September 6, 2024 and again on September 16, 2024. On October 9, 2024, Planning Department staff held a consultation with representatives of the Confederated Villages of Lisjan. As a result of that consultation, the City agreed to:

- Prepare a map that would indicate known archeological or Tribal Cultural Resources sites in Berkeley, as well as areas where the presence of such resources would be expected (the historic Bay shoreline, or riparian areas near creeks, for instance). Residential projects located in these areas that could be approved with a ZC would be subject to the City's standing condition of approval for accidental discovery of archeological or Tribal Cultural resources; and
- Amend the City's Standard Conditions of Approval related to archeological, paleontological, and tribal cultural resources, as well as the condition related to the discovery of human remains

Pursuant to SB 18, on March 14, 2025, the City sent letters to all of the Tribes on the NAHC Contact List providing a 45 day comment period on the proposed General Plan amendments. No comments have been received.

California Government Code § 65352 requires cities proposing General Plan amendments to inform specified public agencies of the proposed actions and provide 45 days for these agencies to provide comments. These agencies include neighboring municipalities, the Berkeley Unified School District, the East Bay Municipal Utilities District, the Bay Area Air Quality Management District, and the Alameda Local Area Formation Commission. City staff sent letters to these agencies on September 26, 2024. No comments were received.

Additional Information Requested by City Council

Charging Stations

BMC Chapter 19.37 includes electric vehicle charging regulations and requirements. For single family homes and duplexes, at least one parking space per dwelling unit with on-site parking must be equipped with capacities to support a future level 2 EV charging station. In multifamily residential buildings, 5% of available parking spaces must be installed with level 2 EV charging stations, 25% of any parking spaces must be EV ready and 20% of parking spaces must be EV capable. It should be noted that there are no off-street parking requirements for residential uses in the City of Berkeley, except for parcels located adjacent to narrow roadways. These EV charging requirements would apply to any parking spaces provided, but in cases where there are no off-street parking spaces present, there would be no requirement to provide EV charging.

The proposed zoning amendments do not include any changes to these requirements, nor do they include any additional requirements specific to middle housing.

Mini-Dorms

At its meeting of July 23, 2024 members of the City Council requested additional information as to how the proposed zoning amendments interface with BMC Chapter 13.42 (Operating Standards for Mini-Dorms and Group Living Accommodations) and whether the proposed zoning amendments could increase the number of mini-dorm configurations.

BMC Chapter 13.42 applies specific regulations to buildings in the R-1, R-1A, R-2, R-2A and R-3 zoning districts that contain a dwelling unit that is occupied by six or more persons. These regulations include registration with the City of Berkeley, the requirement to hire a property manager in some cases, and the designation of a responsible resident by the occupants of the mini-dorm. Additional regulations relate to public nuisances, parties and other possible sources of neighborhood disturbance. The proposed zoning amendment do not include any changes to these existing provisions or amendments to BMC Chapter 13.42. Any residential development project that meets

the applicability standards of BMC Chapter 13.42 would be subject to those requirements.

The proposed zoning amendments include development standards for residential development that increase allowable development and the number of units on an individual parcel. While these development standards do permit more development on a parcel, in the low-density residential districts, the proposed development standards are not inconsistent with the historical development pattern in many of these neighborhoods.

It is not anticipated that the proposed zoning standards would result in the development of mini-dorms at a rate higher than currently observed. Recently, the City of Berkeley has received a number of applications, and has approved, projects that would be characterized as missing middle projects. None of these approved projects have been classified as mini-dorms. Larger Group Living Accommodations, or multi-unit buildings with large numbers of small units, or units with many bedrooms, are more typically proposed along commercial districts and in higher density residential areas.

Demolition Ordinance

On July 9, 2024, City Council adopted amendments to BMC Chapter 23.326 (Demolition and Dwelling Unit Controls). These amendments brought the city's Demolition Ordinance into conformance with State law, and also included a number of Berkeley-specific provisions to protect sitting tenants, preserve affordable housing, and prevent displacement.

The adopted Demolition Ordinance creates a class of units called “protected units,” which include units that are subject to low-income affordable deed restrictions, units that are subject to rent control, or units that are rented by a household at 80% area median income or below, even if otherwise not subject to any rent or price control. The Demolition Ordinance includes affordability requirements for replaced units, as well as rights for sitting tenants.

The proposed zoning amendments include a change to the Demolition Ordinance. The current Demolition Ordinance permits the demolition of a single-family home with an AUP if that home is not tenant occupied and the demolition is included in a project that will result in a net increase in units. Program 29 of the Adopted Housing Element requires the City Council to consider permitting the demolition of single-family homes with a ZC. The rationale for this change is that given that the City of Berkeley is largely built out, middle housing projects will most commonly be the result of redevelopment of existing developed parcels. It would be inconsistent with the City Council's intent to permit the construction of residential uses with a ZC, if a higher level permit were required for the demolition of an existing single family home. Therefore, in that instance where a single family home that is not tenant occupied is part of a middle housing

project that will result in more units, that demolition would be allowed to move forward with the zoning certificate.

Aside from this change, there are no substantive amendments to the Demolition Ordinance included in the proposed zoning amendments.

Land Value Recapture

On July 25, 2017, the City Council adopted a Land Value Recapture Policy. This policy requires that land value recapture be included in the preparation and implementation of all area plans, and referred to the City Manager specific action regarding land value recapture in the preparation of the Adeline Corridor Plan, being undertaken at that time.

The proposed zoning amendments are amendments to the zoning code, but are not area plans. Therefore, the land value recapture policy does not specifically apply to the proposed zoning amendments. While it is anticipated that the upzoning of parcels in the low-density residential districts would result in increased property values, the proposed zoning amendments do not include any specific policies or mechanisms to capture any increment of that increase in value. However, on previous occasions, including the upzoning of the Southside Plan Area, the City Council has referred to other existing policies, such as the City's Inclusionary Zoning requirements, as tools that achieve the goal of land value recapture. The City Council has also indicated that increasing the housing supply is in itself a value to the wider community, and has included the Middle Housing zoning changes as a strategy to affirmatively further fair housing and end exclusionary zoning. The City Council has also modified the City's Inclusionary Zoning requirements to include exemptions for smaller, Middle Housing projects, indicating that protecting the economic feasibility of these projects is a land use policy goal for Berkeley.

Historic Landmarks and Middle Housing

The proposed zoning amendments allow residential development projects that conform with objective development standards to be approved with a Zoning Certificate. However, BMC Chapter 3.24.200 states that "any construction, alteration or demolition for which a permit is required" that is "to be carried out on a designated landmark, in a designated historic district or structure of merit" must be approved by the Landmarks Preservation Board. While a ZC is not a permit, a project approved with a ZC needs to obtain a Building Permit, so would be subject to this requirement, if applicable.

The proposed zoning amendments permit the demolition of a single-family home that is not tenant occupied with a ZC if the subsequent project results in a net increase in units. Additional language has been added to exempt designated landmarks, structures in a designated historic district or structures of merit from this streamlined requirement. Such projects would be required to obtain the approval of the Landmarks Preservation Commission for a demolition.

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

Review of City Council Referrals on Middle Housing

At its meeting of July 23, 2024, the City Council directed staff to review previous referrals and to respond to any specific questions or requests included in those referrals. Responses to those referrals are included in **Attachment 6** of this report.

BACKGROUND

Additional background information on topics including relevant state laws, community engagement and input, and the Planning Commission and City Council review of the proposed zoning amendments can be found in the July 23, 2024 City Council report (**Attachment 3**).

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Housing Element Update EIR

Development projections for this project and all reasonably foreseeable growth resulting from development contemplated by the City’s updated Housing Element were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update (“Housing Element Update EIR”), which was certified by the City Council on January 18, 2023.³

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

³ Housing Element Update 2023-2031 Final EIR.

https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf

Element EIR included a statement of overriding consideration that provides reasons the Housing Element could be adopted even though those impacts could occur.

Pursuant to CEQA Guidelines Section 15168(c)(2), a consistency analysis was prepared to analyze the proposed Middle Housing zoning changes in light of the project described in the Housing Element EIR. This analysis did not find any new impacts, or any substantial increase in the magnitude of any previously disclosed impact, nor did it reveal any other significant new information, that was not previously disclosed and analyzed in the Middle Housing EIR. Therefore, no additional environmental review under CEQA is required.

RATIONALE FOR RECOMMENDATION

The proposed ordinance includes the City Council's recommended zoning ordinance amendments to encourage the development of middle housing in low density residential districts, consistent with Housing Element Program 29—Middle Housing and City Council referrals.

ALTERNATIVE ACTIONS CONSIDERED

During the middle housing policy development process, staff received feedback from both the City Council and the Planning Commission that the middle housing standards should promote the creation of more housing units, and should not simply allow larger unit sizes at low densities. The key trade-off within middle housing is that larger development projects are permitted, with the understanding that these projects contribute to addressing the city's housing shortage by providing more housing units. In response, staff had proposed development standards that would scale based on the number of units included in a proposed project; that is, if a project includes more units, it can be larger.

While the proposed ordinance includes development standards that would permit Multi-Family Residential uses that include more units, they would also streamline the approval of larger Single-Family Residential uses. To address this issue, the City Council had directed staff to add provisions to the proposed ordinance to limit the size of single-family homes that could be approved with a ZC.

Maximum Floor Area Ratio (FAR): While an effective maximum FAR can be calculated based on existing standards for lot coverage and maximum height, the Berkeley Municipal Code does not include a specific FAR standard in the R-1, R-1A, R-2, and R-2A districts. The City Council had initially provided feedback to staff to consider scaling an FAR standard to increase as the number of units increase on a site, and previous Zoning Adjustments Board and Planning Commission subcommittees have supported standards that encourage the development of smaller or medium-sized, cost-efficient units.

The proposed ordinance does not include any FAR standards. The Planning Commission felt that building size was sufficiently regulated by height, setback and lot

coverage standards, and that an additional development standard would complicate the project design process and was unnecessary.

Both the Planning Commission and City Council had expressed support for development standards that encourage unit sizes that may be more affordable “by design.” A sliding Maximum FAR standard can be tailored to encourage, at least on paper, an average unit size.

Example: Maximum FAR Standards to Control for Unit Size

The proposed ordinance includes development standards related to maximum density, height and lot coverage standards, which on a typical 5,000 square foot lot would result in a maximum project buildout of roughly 9,000 square feet. Maximum development under these standards could result in the average unit sizes, at full build out on a typical 5,000 square foot lot, shown in Table 7.

Table 7 Examples of unit sizes by Zoning District under proposed Ordinance

Units on 5,000 sf Lot	R-1	R-2	R-2A	MU-R
1	9,000 sf			
2	4,500 sf			
3	3,000 sf			
4	2,250 sf			
5	1,800 sf			
6		1,542 sf		
7			1,286 sf	

Adopting a maximum FAR could disincentivize lower density projects with large unit sizes, in favor of projects with smaller units. For example, the standards shown in Table 8 could help achieve a policy goal of encouraging the development of residential units that are no more than 1,400 square feet in size on a 5,000 square foot lot.

Table 8. Possible FAR Standards

1-2 units	0.75
3-5 units	0.8
6-7 units	1.5
8 + units	1.75

Utilizing the maximum FAR standards included in Table 7, along with the proposed maximum density, height, and lot coverage standards included in the proposed ordinance, could result in average unit sizes for a typical 5,000 square foot lot shown in Table 9.

Table 9. Examples of unit sizes by Zoning District Utilizing a Scaled FAR standard

Units on 5,000 sf Lot	R-1	R-2	R-2A	MU-R
1	3,750 sf		Minimum 2 units per lot	
2	1,875 sf			
3	1,333 sf			
4	1,000 sf			
5	800 sf			
6	Exceeds Maximum Density	1,042 sf	1,250 sf	
7		Exceeds Maximum Density	1,071 sf	

A maximum FAR standard can also control height and bulk of a proposed project, and result in additional usable open space. The theoretical projects in Table 9 could all meet their Maximum FAR and Maximum Density without exceeding two stories. A project that would proposed to go higher would need to provide more undeveloped area elsewhere on the lot to meet the Maximum FAR standard.

CONTACT PERSON

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

Attachments:

1: Ordinance

Exhibit A: Parcels Rezoned from R-1A and R-2

2: Proposed Ordinance, Annotated

3: City Council Report: July 23, 2024

4: Development Standards Tables

5: General Plan Resolution, Text and Map Changes and CEQA Findings

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

B: Text of General Plan amendments.

C: CEQA Findings and Statement of Overriding Consideration

Att 1 CEQA Consistency Analysis

6: Review of Prior City Council Actions and Referrals Related to Middle Housing

7: Public Hearing Notice

ORDINANCE NO. -N.S.

MIDDLE HOUSING ZONING AMENDMENTS

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.108.020 is amended to read as follows:

TABLE 23.108-1: ZONING DISTRICTS

DISTRICT SYMBOL	NAME OF DISTRICT
Residential Districts	
R-1	~~Single-Family Residential~~ <u>Multi-Unit 1</u>
~~R-1A~~	~~Limited Two-family Residential~~
ES-R	Environmental Safety Residential
R-2	~~Restricted Two-family Residential~~ <u>Multi-Unit 2</u>
R-2A	~~Restricted Multiple-family Residential~~ <u>Multi-Unit 2A</u>
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
Commercial Districts	

DISTRICT SYMBOL	NAME OF DISTRICT
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
Manufacturing Districts	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
Special Districts	
S	Specific Plan
U	Unclassified

Section 2. That Table 23.202-1 Allowed Land Uses in Residential Districts within BMC Section 23.202.020 is amended to read as follows:

TABLE 23.202-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)	
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **		
Residential Uses													
Accessory Dwelling Unit	See 23.306— Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units									
Dwellings													
Single-Family Residential	ZC* UP(PH) Hillside Overlay	UP(PH)	UP(PH)	ZC* UP(PH) Hillside Overlay	ZC* UP(PH) Hillside Overlay	UP(PH) * -	UP(PH)	UP(PH)	UP(PH)	UP(PH) * -	UP(PH) * -	NP	23.202.040(C) and (D) 23.302.070(H)
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Multi-Family Residential	ZC* NP Hillside Overlay	NP	NP	ZC* NP UP(PH) Hillside Overlay	ZC* UP(PH) Hillside Overlay	UP(PH) * -	UP(PH)	UP(PH)	UP(PH)	UP(PH) * -	UP(PH) * -	UP(P H)	23.202.040(D) 23.302.070(H)
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(P H)	23.302.070(H)
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H– Use-Specific Regulations								
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(P H)	23.302.070(H)
Public and Quasi-Public Uses													
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(P H)	23.302.070(H)
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(P	23.302.070(H)

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **	
											H)	
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations
Community Care Facility	See 23.202.040.A– Use-Specific Regulations											
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter, 15 beds or fewer	NP	NP	NP	NP	NP	NP	ZC	ZC	ZC	ZC	ZC	23.308-Emergency Shelters
Emergency Shelter, more than 15 beds	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.308-Emergency Shelters
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Low Barrier Navigation Center	ZC NP	NP	NP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Nursing Home	NP	NP	NP	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Supportive Housing	NP ZC*	NP	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.302.070.I-Supportive Housing
Commercial Uses												
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	UP(PH)	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH)	23.202.140.B.3– R-SMU Residential Southside

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **	
												Mixed Use District
Food Service Establishment, Under 3,000 sq. ft.	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.302.070.(E) – Use=Specific Regulations
Food Service Establishment, 3,000 sq. ft. or larger	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP*	AUP*	23.302.070.(E) – Use=Specific Regulations
Group Instruction	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(P H)	23.202.150(C) – R-BMU Residential BART Mixed Use District
Health and Fitness Facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(P H)	23.202.150 (C) – R-BMU Residential BART Mixed Use District
Hotel, Tourist	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Laundromat and Cleaner	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(P H)	
Office	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	NP	UP(PH)	UP(P H)	23.202.150.C – R-BMU Residential BART Mixed Use District
Parking Lot/Structure	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(P H)	23.302.070.G– Unenclosed Accessory Structures in Residential Districts 23.322.100– On-site Loading Spaces
Personal and Household Service, General	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC*	ZC*	23.202.140.B.2– R-SMU Residential Southside Mixed Use District
Retail, General	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH) *	UP(PH) *	UP(PH) *	UP(P H)	23.202.040.B– Use- Specific Regulations
Veterinary Clinic	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	UP(P H)	
Video Tape/Disk Rental	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)	NP	
Incidental Uses												
Live Entertainment Unamplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	NP	

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Live Entertainment Amplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	NP	
Industrial and Heavy Commercial Uses												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Other Uses												
Accessory Uses	See 23.302.020.A– General Use Regulations											
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Home Occupations	See 23.302.040– Home Occupations											
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH)*	23.312—Live/Work
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.314—Short-Term Rentals
Temporary Uses	See 23.302.030– Temporary Uses and Structures											
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.318—Urban Agriculture
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	23.318—Urban Agriculture
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities											

Section 3. That BMC Section 23.202.030(A) is amended to read as follows:

A. **Residential Additions.** See Section 23.502.020(A) ("A" Terms) for residential addition definitions.

1. **Permits Required.**

(a) In the ES-R district, residential additions require permits as follows:

- i. Residential additions up to 10 percent of lot area or 200 square feet, whichever is less: Zoning Certificate.
- ii. Major residential additions more than 10 percent of lot area or 200 square feet, whichever is less: Use Permit.

~~(b) In the R-3, R-S, R-SMU and C-T districts within the Southside Plan boundaries, any residential addition requires a Zoning Certificate.~~

~~(c)~~ b) In all other Residential Districts the R-1H, R-1AH, R-2H, and R-2AH, and the R-3 district outside the Southside Plan boundaries, and in the R-4, R-5 and R-BMU districts, residential additions require permits as follows:

- i. Residential additions (up to 15 percent of lot area or 600 square feet, whichever is less): Zoning Certificate.
- ii. Major residential additions (all other residential additions): AUP.

Section 4. That BMC Section 23.202.030(B)(1) is amended to read as follows:

1. In the R-1H, ~~R-1A~~, R-2H, R-2AH, ~~and R-3~~, and R3-H districts, adding a bedroom to a lot requires permits as follows:

- (a) Adding a first, second, third, or fourth bedroom to a lot: no permit required.
- (b) Adding a fifth bedroom to a lot: AUP.
- (c) Adding a bedroom to a lot beyond the fifth: Use Permit.

(d) No permit is required to add up to two bedrooms in an existing dwelling unit through the reconfiguration of existing habitable space, regardless of the number of bedrooms on the existing lot.

Section 5. That BMC Section 23.202.040(C) and (D) be added to read as follows:

C. One Single-Family Residential Use on a Single Lot in the R-1, R-2 and R-2A districts.

(1) This section applies on lots with one existing or proposed single-family residential dwelling on a single lot, for new construction or residential additions.

(a) The residential gross floor area of a single-family residential dwelling may be no larger than 50 percent of the lot area, or 2,500 square feet, whichever is greater.

(b) A single-family residential dwelling may exceed the size limitations in this section with an AUP.

(c) This subsection shall not apply to parcels located in the Hillside Overlay Zone.

D. Noticing for New Dwelling Uses in the R-1, R-2, and R-2A Zoning Districts

(1) This section applies to proposed new dwelling units, other than ADUs, located in the R-1, R-2 and R-2A zoning districts and are eligible for approval with a Zoning Certificate, as indicated in Table 23-202-1 Allowed Land Uses in Residential Districts.

(a) Scope and Timing of Notice. The City shall mail a courtesy notice to tenants of the subject property, and owners and tenants of the adjacent, confronting, and abutting properties, within ten working days of submission of the application to the City.

(b) Content of Notice. Notice shall provide the address of the project, allowable hours of construction and information for tenants of the subject property on how to contact a Rent Board Housing Counselor by e-mail or phone and any other resource information deemed relevant.

(c) Mailing Fees. The applicant shall be responsible for the cost of materials, postage, and staff time necessary to process and mail notices.

(d) This subsection shall not apply to parcels located in the Hillside Overlay Zone.

Section 6. That BMC Section 23.202.050(A) is amended to read as follows:

A. **District Purpose.** The purpose of the ~~Single-Family~~ Residential Multi-Unit 1 (R-1) district is to:

1. Implement the General Plan by facilitating the development of residential areas consistent with a pattern of housing types ranging from single-family to small apartment structures. Recognize and protect the existing pattern of development in the low-density, single-family residential areas of the city consistent with the General Plan;
2. Make housing available for persons who desire detached and multi-unit

- housing ~~with and a relatively large amount of~~ usable open space;
3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air; and
 4. Permit community facilities such as religious assembly uses, schools, parks, and libraries which serve the local population and are not detrimental to the immediate neighborhood.

Section 7. That the title of BMC Section 23.202.050 is amended to read as follows:

23.202.050 – R-1 ~~Single-Family~~ Residential Multi-Unit 1 District

Section 8. That BMC Chapter 23.202.050(D)(1) R-1 Development Standards is amended to read as follows:

D. Development Standards.

1. Basic Standards. See Table 23.202-2: R-1 Development Standards and Table 23.202-3: R-1H Development Standards.

Section 9. That Table 23.202-2 R-1 Development Standards within BMC Chapter 23.202.050 is amended to read as follows:

Table 23.202-2 R-1 Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space ~~per Per Dwelling Unit~~ <u>1,000 sq. ft. of Gross Residential Floor Area</u> , Minimum	~~400-150~~ sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, ~~Average~~ <u>Maximum</u>		23.304.050 – Building Height
New Buildings ~~or and Non-Residential~~ Additions	~~28-35~~ ft. ~~and or~~ 3 stories [1]	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
<u>Residential Density (du/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>10</u>	
<u>Maximum</u>	<u>40</u>	

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front <u>[1]</u>	<u>5</u> ~~20~~ -ft.	
Rear <u>[1]</u>	<u>5</u> ~~20~~ -ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	~~No minimum~~ <u>5 ft.</u>	
Lot Coverage, Maximum	~~40%-60%~~	23.304.120 – Lot Coverage
Notes:		
<u>[1] Front and rear setbacks must add up to at least 20 feet.</u>		

Table 23.202-3 R-1H Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
<u>Lot Area for New Lots, Minimum</u>	<u>5,000 sq. ft.</u>	<u>23.304.020 – Lot Requirements</u>
<u>Usable Open Space Per Dwelling Unit, Minimum</u>	<u>400 sq. ft.</u>	<u>23.304.090 – Usable Open Space</u>
<u>Floor Area Ratio, Maximum</u>	<u>No maximum</u>	
<u>Building Height</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>New Buildings or Non-Residential Additions, Average</u>	<u>28 ft. and 3 stories [1]</u>	
<u>New Buildings or Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Residential Additions</u>		
<u>Average</u>	<u>14 ft. or highest existing portion of roof, whichever is lower [2]</u>	<u>23.304.050 – Building Height</u>
<u>Maximum</u>	<u>20 ft [3]</u>	
<u>Lot Line Setbacks, Minimum</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>Front</u>	<u>20 ft.</u>	
<u>Rear</u>	<u>20 ft.</u>	<u>23.304.030 – Setbacks</u>
<u>Interior Side</u>	<u>4 ft.</u>	

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>No minimum</u>	
<u>Lot Coverage, Maximum</u>	<u>40%</u>	<u>23.304.120 – Lot Coverage</u>
<u>Notes:</u> <u>[1] Average Building Height 35 ft. with an AUP.</u> <u>[2] Average Building Height greater than 14 ft. up to 28 ft. allowed with an AUP. Average building height greater than 28 ft up to 35 ft allowed with an additional AUP.</u> <u>[3] Maximum building height greater than 20 ft. allowed with an AUP pursuant to BMC 23.210.020(C)(2).</u>		

Section 10. That BMC Chapter 23.202.060 is amended as follows:

23.202.060 R-1A Limited Two-Family Residential District **Reserved**

A. **District Purpose.** The purpose of the Limited Two-Family Residential (R-1A) district is to:

1. Recognize and protect the existing pattern of low medium-density residential areas characterized by reasonable open and spacious type of development consistent with the General Plan;
2. Protect adjacent properties from unreasonable obstruction of light and air;
3. Allow flexibility in the use of property for residential purposes by permitting two dwelling units on one lot under limited conditions; and
4. Appropriately regulate the rear and side setback areas for the construction of a dwelling unit in areas west of San Pablo Avenue.

B. **Allowed Land Uses.** See Table 23.202-1: Allowed Land Uses in Residential Districts

C. **Additional Permit Requirements.** See Subsection A (Residential Additions) and Subsection B (Adding Bedrooms) of Section 23.202.030-Additional Permit Requirements.

D. **Development Standards.**

1. **Basic Standards.** See Table 23.202-3: R-1A Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-1A district are noted in Table 23.202-3: R-1A Development Standards.

TABLE 23.202-3: R-1A DEVELOPMENT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020—Lot Requirements
New Lots	5,000 sq. ft.	
For Two Dwelling Units	4,500 sq. ft. [1]	
Usable Open Space Per Dwelling Unit, Minimum	400 sq. ft. [2]	23.304.090—Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050—Building Height
New Buildings and Non-Residential Additions	28 ft. and 3 stories [3]	
Rear Main Buildings	22 ft. and 2 stories	
Residential Additions	14 ft. [4]	
Lot Line Setbacks, Minimum		23.304.030—Setbacks
Front	20 ft.	
Rear	20 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Interior and Street Side for Rear Main Building	6 ft.	
Building Separation, Minimum		23.304.040—Building Separation in Residential Districts
1-story	8 ft.	
2-stories	12 ft.	
3-stories	16 ft.	
Lot Coverage, Maximum		23.304.120—Lot Coverage
Interior and Through Lot	40%	
Corner Lot	45%	

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
Notes: ~~[1] Maximum two units per lot.~~ ~~[2] Open space is not required for accessory dwelling unit.~~ ~~[3] Maximum 35 ft. with an AUP.~~ ~~[4] Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft allowed with an additional AUP.~~	

Section 11. That the title of BMC Section 23.202.080 is amended to read as follows:

23.202.080- R-2 ~~Restricted Two-Family Residential~~ Multi-Unit 2 District

Section 12. That BMC Section 23.202.080(A) is amended to read as follows:

- A. **District Purpose.** The purpose of the ~~Restricted Two-Family Residential~~ Multi-Unit 2 (R-2) district is to:
1. Implement the General Plan by encouraging the development of ~~low-medium-density~~ residential areas ~~characterized by a reasonably open and spacious type of development with a pattern with a range~~ of housing types ~~ranging from single-family to duplexes and small apartment structures~~;
 2. Make available housing for persons who desire a range of housing choice with ~~a relatively large amount of useable~~ open space; and
 3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air.

Section 13 That BMC Section 23.202.080(D) is amended to read as follows:

D. Development Standards.

1. **Basic Standards.** See Table 23.202-5: R-2 ~~Development Lot and Height~~ Standards, Table 23.202-6: R-2H Development Standards, Table 23.202-~~67~~: R-2H Setback and Building Separation Standards, and Table 23.202-~~78~~: R-2H Lot Coverage Standards for development standards in the R-2 district.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2 district are noted in Table 23.202-5: R-2 ~~Development Lot and Height~~ Standards, Table 23.202-6: R-2H Development Standards, Table 23.202-~~67~~: R-2H Setback and Building Separation Standards and Table 23.202-~~78~~: R-2H Lot Coverage Standards.

TABLE 23.202-5: R-2 ~~LOT AND HEIGHT DEVELOPMENT~~ STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	
~~Per Dwelling Unit~~	~~2,500 sq. ft. [1]~~	
~~Usable Open Space, per Dwelling Unit Per 1,000 sq. ft. of gross residential floor area, Minimum~~	~~400-150 sq. ft.~~	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, ~~Average~~		23.304.050 – Building Height
New Buildings and ~~Non-Residential~~ Additions, ~~Maximum~~	~~28-35 ft. and or 3 stories [2]~~	
~~Within 15 feet of Rear Property Line, Maximum~~	~~22 ft.~~	
~~Residential Additions~~	~~14 ft. [3]~~	
~~Residential Density (du/acre)~~		~~23.106.100 – Residential Density~~
~~Minimum~~	~~10~~	
~~Maximum~~	~~50~~	
~~Lot Line Setbacks, Minimum~~		~~23.304.030 – Setbacks~~
~~Front [1]~~	~~5 ft.~~	
~~Rear [1]~~	~~5 ft.~~	
~~Interior Side~~	~~4 ft.~~	
~~Street Side~~	~~4 ft.~~	
~~Building Separation, Minimum~~	~~5 ft.~~	
~~Lot Coverage, Maximum~~	~~60%~~	~~23.304.120 – Lot Coverage~~
Notes:		
~~[1] One additional dwelling unit is allowed for any remaining lot area between 2,000 and 2,500 square feet. Front and rear setbacks must add up to at least 20 feet.~~		
~~[2] Maximum 35 ft. with an AUP.~~		
~~[3] Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft allowed with an additional AUP.~~		

TABLE 23.202-6: R-2H DEVELOPMENT STANDARDS

<u>BASIC STANDARDS</u>		<u>SUPPLEMENTAL STANDARDS</u>
<u>Lot Area, Minimum</u>		<u>23.304.020 – Lot Requirements</u>
<u>New Lots</u>	<u>5,000 sq. ft.</u>	
<u>Usable Open Space, Per Dwelling Unit, Minimum</u>	<u>400 sq. ft.</u>	<u>23.304.090 – Usable Open Space</u>
<u>Floor Area Ratio, Maximum</u>	<u>No maximum</u>	
<u>Main Building Height, Average</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>New Buildings and Non-Residential Additions</u>	<u>28 ft. and 3 stories [1]</u>	
<u>New Buildings and Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Residential Addition, Height</u>		<u>23.304.050 – Building Height</u>
<u>Average</u>	<u>14 ft. or highest existing portion of roof, whichever is lower [2]</u>	
<u>Maximum</u>	<u>20 ft. [3]</u>	
<u>Lot Coverage, Maximum</u>	<u>See Table 23.202-8</u>	<u>23.304.120 – Lot Coverage</u>
<u>Notes:</u>		
<u>[1] Average Building Height 35 ft. with an AUP.</u>		
<u>[2] Average Building Height greater than 14 ft. up to 28 ft. allowed with an AUP.</u>		
<u>Average building height greater than 28 ft up to 35 ft allowed with an additional AUP.</u>		
<u>[3] Maximum building height greater than 20 ft. allowed with an AUP pursuant to BMC 23.210.020(C)(2).</u>		

TABLE 23.202-67: R-2H SETBACK AND BUILDING SEPARATION STANDARDS

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1ST	2ND	3RD	
<u>Lot Line Setbacks, Minimum</u>				<u>23.304.030– Setbacks</u>
<u>Front</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>20 ft.</u>	

Rear	20 ft.	20 ft.	20 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	10 ft.	10 ft.	10 ft.	
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	23.304.040– Building Separation in Residential Districts

TABLE 23.202-78: R-2H LOT COVERAGE STANDARDS

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				23.304.120– Lot Coverage
Interior and Through Lot	45%	40%	35%	
Corner Lot	50%	45%	40%	

Section 14. That the title BMC Section 23.202.090 is amended to read as follows:

23.202.090- R-2A ~~Restricted Multiple-Family Residential~~ Multi-Unit 2A District

Section 15. That BMC Section 23.202.090(A) is amended to read as follows:

A. **District Purpose.** The purpose of the ~~Restricted Multiple-Family Residential~~ Multi-Unit 2A (R-2A) district is to:

1. Implement the General Plan by ~~encouraging-facilitating~~ the development of ~~medium-density~~ residential areas characterized by a range of housing types~~small multiple-family and garden-type apartment structures with a maximum of open space consistent with this type of development;~~
2. Make available housing for persons who desire apartment-type accommodations with ~~a maximum of~~ open space; and
3. Provide objective standards to P~~protect~~ adjacent properties from unreasonable obstruction of light and air; and
4. ~~Permit only land use intensity which is compatible with existing low-density residential structures and is not detrimental to the immediate neighborhood.~~

Section 16. That BMC Section 23.202.090(D) is amended to read as follows:

D. Development Standards.

1. **Basic Standards.** See Table 23.202-~~89~~: R-2A ~~Lot and Height Development~~ Standards, Table 23.202-10 R-2AH Development Standards, Table 23.202-~~911~~: R-2AH Setback and Building Separation Standards, and Table 23.202-~~1012~~: R-2AH Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2A district are noted in Table 23.202-~~89~~: R-2A ~~Lot and Height Development~~ Standards, Table 23.202-10 R-2AH Development Standards, Table 23.202-~~911~~: R-2AH Setback and Building Separation Standards, and Table 23.202-~~1012~~: R-2AH Lot Coverage Standards.

TABLE 23.202-~~89~~: R-2A ~~LOT AND HEIGHT DEVELOPMENT~~ STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		
New Lots	5,000 sq. ft.	23.304.010 - <u>Lot Requirements</u>
<u>Per Dwelling Unit</u>	<u>1,650 sq. ft. [1]</u>	
<u>Usable Open Space, per Dwelling Unit, Per 1,000 sq. ft. gross residential floor area Minimum</u>	<u>400-150 sq. ft</u>	23.304.090 – <u>Usable Open Space</u>
Main Building Height, <u>Average</u>		23.304.050 – Building Height
New Buildings and <u>Non-Residential Additions, Maximum</u>	<u>28-35 ft. and-or 3 stories</u>	
<u>Within 15 ft. of Rear Property Line, Maximum</u>	<u>22 ft.</u>	
<u>Residential Additions</u>	<u>14 ft. [3]</u>	
<u>Residential Density (du/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>20</u>	
<u>Maximum</u>	<u>60</u>	
<u>Lot Line Setbacks, Minimum</u>		<u>23.304.030 – Setbacks</u>
<u>Front [1]</u>	<u>5 ft.</u>	
<u>Rear [1]</u>	<u>5 ft.</u>	

<u>Interior Side</u>	<u>4 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>5 ft.</u>	
<u>Lot Coverage, Maximum</u>	<u>60%</u>	<u>23.304.120 – Lot Coverage</u>
<u>Notes:</u> [1] Front and rear setbacks must add up to at least 20 feet. ~~[1] One additional dwelling unit is allowed for remaining lot area between 1,300 and 1,650 square feet.~~ [2] Maximum 35 ft. with an AUP. [3] Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft allowed with an additional AUP.		

TABLE 23.202-10: R-2AH DEVELOPMENT STANDARDS

<u>BASIC STANDARDS</u>		<u>SUPPLEMENTAL STANDARDS</u>
<u>Lot Area, Minimum</u>		
<u>New Lots</u>	<u>5,000 sq. ft.</u>	<u>23.304.010 - Lot Requirements</u>
<u>Per Dwelling Unit</u>	<u>1,650 sq. ft. [1]</u>	
<u>Usable Open Space, per Dwelling Unit, Minimum</u>	<u>400 sq. ft</u>	<u>23.304.090 – Usable Open Space</u>
<u>Main Building Height, Average</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>New Buildings and Non-Residential Additions</u>	<u>28 ft. and 3 stories [2]</u>	<u>23.304.050 – Building Height</u>
<u>Residential Additions, Height</u>		
<u>Average</u>	<u>14 ft. or highest existing portion of roof, whichever is lower. [3]</u>	
<u>Maximum</u>	<u>20 ft. [4]</u>	

Notes:

[1] One additional dwelling unit is allowed for a remaining lot area between 1,300 and 1,650 square feet.

[2] Average Building Height 35 ft. with an AUP.

[3] Average Building Height greater than 14 ft. up to 28 ft. allowed with an AUP.

Average building height greater than 28 ft up to 35 ft allowed with an additional AUP.

[4] Maximum building height greater than 20 ft. allowed with an AUP pursuant to BMC 23.210.020(C)(2).

TABLE 23.202-~~911~~: R-2A~~H~~ SETBACK AND BUILDING SEPARATION STANDARDS

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 ST	2 ND	3 RD	
Lot Line Setbacks, Minimum				23.304.030– Setbacks
Front	15 ft.	15 ft.	15 ft.	
Rear	15 ft.	15 ft.	15 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	6 ft.	8 ft.	10 ft.	23.304.040– Building Separation in Residential Districts
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	

TABLE 23.202-~~1012~~: R-2A~~H~~ LOT COVERAGE STANDARDS

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				23.304.120
Interior and Through Lots	45%	40%	35%	
Corner Lots	50%	45%	40%	

Section 17. That BMC Section 23.202.100(E)(2) is amended to read as follows:

3. **Supplemental Standards.** Supplemental development standards that apply in the R-3 district are noted in Table 23.202-~~1113~~: R-3 Development

Standards.

Section 18. That the title of Table 23.202-11: R-3 Development Standards within BMC Section 23.202.100 is amended to read as follows:

TABLE 23.202-~~11~~13: R-3 DEVELOPMENT STANDARDS

Section 19. That the BMC Sections 23.202.110(E)(1) and (2) are amended to read as follows:

E. Development Standards.

1. **Basic Standards.** See Table 23.202-~~12~~14: R-4 Lot and Height Standards, Table 23.202-~~13~~15: R-4 Setback and Building Separation Standards, and Table 23.202-14~~6~~: R-4 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-4 district are noted in Table 23.202-~~12~~14: R-4 Lot and Height Standards, Table 23.202-~~13~~15: R-4 Setback and Building Separation Standards, and Table 23.202-~~14~~16: R-4 Lot Coverage Standards.

Section 20. That the title of Table 23.202-12: R-4 Lot and Height Standards within BMC Section 23.202.110 is amended to read as follows:

TABLE 23.202-~~12~~14: R-4 LOT AND HEIGHT STANDARDS

Section 21. That the title of Table 23.202-13: R-4 Setback and Building Separation Standards within BMC Section 23.202.110 is amended to read as follows:

TABLE 23.202-~~13~~15: R-4 SETBACK AND BUILDING SEPARATION STANDARDS

Section 22. That the title of Table 23.202-14: R-4 Lot Coverage Standards within BMC Section 23.202.110 is amended to read as follows:

TABLE 23.202-~~14~~16: R-4 LOT COVERAGE STANDARDS

Section 23. That BMC Section 23.202.120(D)(1) and (2) be amended to read as follows:

D. Development Standards.

1. **Basic Standards.** See Table 23.202-~~15~~17: R-5 Lot and Height Standards, Table 23.202-~~16~~18: R-5 Setback and Building Separation Standards, and Table 23.202-~~17~~19: R-5 Lot Coverage Standards.

2. **Supplemental Standards.** Supplemental development standards that apply in the R-5 district are noted in Table 23.202-~~1517~~: R-5 Lot and Height Standards, Table 23.202-~~1618~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~1719~~: R-5 Lot Coverage Standards.

Section 24. That the title of Table 23.202-15: R-5 Lot and Height Standards within BMC Section 23.202.120 is amended to read as follows:

TABLE 23.202-~~1517~~: R-5 LOT AND HEIGHT STANDARDS

Section 25. That the title of Table 23.202-16: R-5 Setback and Building Separation Standards within BMC Section 23.202.120 is amended to read as follows:

TABLE 23.202-~~1618~~: R-5 SETBACK AND BUILDING SEPARATION STANDARDS

Section 26. That the title of Table 23.202-17: R-5 Lot Coverage Standards within BMC Section 23.202.120 is amended to read as follows:

TABLE 23.202-~~1719~~: R-5 LOT COVERAGE STANDARDS

Section 27. That BMC Section 23.202.130(E)(1) and (2) are amended to read as follows:

E. Development Standards.

1. **Basic Standards.** See Table 23.202-~~1820~~: R-S Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-S district are noted in Table 23.202-~~1820~~: R-S Development Standards.

Section 28. That the title of Table 23.202-18: R-S Development Standards within BMC Section 23.202.130 is amended to read as follows:

TABLE 23.202-~~1820~~: R-S DEVELOPMENT STANDARDS

Section 29. That BMC Section 23.202.140(E)(1) is amended to read as follows:

1. **Basic Standards.** See Table 23.202-~~1921~~: R-SMU Development Standards.

Section 30. That the title of Table 23.202-19: R-SMU Development Standards within BMC Section 23.202.140 is amended to read as follows:

TABLE 23.202-~~1921~~: R-SMU DEVELOPMENT STANDARDS

Section 31. That BMC Section 23.202.150(D) is amended to read as follows:

- D. **Ground-floor Uses.** See Table 23.202-~~2022~~: Permitted Street-Facing Ground Floor Uses.

Section 32. That the title of Table 23.202-20: Permitted Street-Facing Ground Floor Uses within BMC Section 23.202.150 is amended to read as follows:

TABLE 23.202-~~2022~~: PERMITTED STREET-FACING GROUND FLOOR USES

Section 33. That BMC Section 23.202.150(F)(1) and (2) are amended to read as follows:

1. **Basic Standards.** See Table 23.202-~~2123~~.
2. **Supplemental Standards.** Supplemental standards that apply in the R- BMU district are noted in Table 23.202-~~2123~~.

Section 34. That the title of Table 23.202-21 within BMC Section 23.202.150 is amended to read:

TABLE 23.202-~~2123~~: R-BMU DEVELOPMENT STANDARDS

Section 35. That the lines “Single-Family,” “Two Family,” and “Multi-Family” in Table 23.204-1: Allowed Land Uses in Commercial Districts within BMC Section 23.204.020 are amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Permit Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Single-Family Residential	UP(H)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3; 23.302.070.H
~~Two-Family~~	~~UP(PH)~~	~~UP(PH)*~~	~~UP(PH)~~	~~UP(PH)~~	~~UP(PH)~~	~~UP(PH)~~	~~UP(PH)*~~	~~UP(PH)~~	~~UP(PH)~~	~~UP(PH)~~	~~UP(PH)~~	~~23.204.060.B.3; 23.302.070.H~~
Multi- ~~Unit~~ Residential Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3; 23.302.070.H

Section 36. That the lines “Single Family,” “Two Family,” “Multi-Unit Family” and “Mixed Use Residential” in Table 23.206-1: Allowed Land Uses in Manufacturing Districts within BMC Section 23.206.020 are amended to read as follows:

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Residential Uses					
Dwellings					
Single-Family Residential	NP	NP	NP	AUP	23.206.090.B.8
Two Family	NP	NP	NP	AUP*	23.206.090.B.8
Multi-Family Multi-Unit Residential	NP	NP	NP	ZC* UP(PH)	23.206.090.(B) 7&(8)
Mixed-Use Residential	NP	NP	NP	UP(PH) * -	23.206.090.(B)(7) 8&9

Section 37. That BMC Section 23.206.090(B)(7) to (9) are amended to read as follows:

7. Multi-Family Dwellings. Table 23.206-13 shows permits required for multi-family dwellings in the MU-R district.

TABLE 23.206-13: MU-R MULTI-FAMILY DWELLING PERMIT REQUIREMENTS

<u>NUMBER OF UNITS</u>	<u>PERMIT REQUIRED</u>
<u>3 or 4</u>	<u>AUP</u>
<u>5 or more</u>	<u>UP(PH)</u>

8. Residential Uses.

(a) A Use Permit is required to establish a dwelling unit, group living accommodation, or live/work unit MU-R that is within 150 feet of:

An M or MM district; or

A construction product manufacturing or primary product manufacturing use.

(b) To deny a Use Permit required by Paragraph (a) above, the ZAB must find that:

~~The proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~

~~Existing or reasonably foreseeable adjacent land uses in the M or MM district would have a material adverse effect on the proposed residential use.~~

~~(c) As a condition of approval for a Use Permit required by Paragraph (a) above, the residential property owner shall record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M or MM district may create noise, dust, odors, light/glare, and other impacts that will not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.~~

97. Residential Mixed-Use Residential. To approve an AUP or Use Permit to establish or expand of a ~~residential~~ mixed-use ~~residential~~ building in the MU-R district, the review authority must find that the specific combination of proposed residential and non-residential uses will not be hazardous or detrimental to persons living and/or working on the site or within the project vicinity.

8. Noticing for New Dwelling Units. This section applies to proposed new dwelling units that are eligible for approval with a Zoning Certificate, as indicated in Table 23.206-1 Allowed Land Uses in Manufacturing Districts.

(a) Scope and Timing of Notice. The City shall mail a courtesy notice to tenants of the subject property, and owners and tenants of the adjacent, confronting, and abutting properties, within ten working days of submission of the application to the City.

(b) Content of Notice. Notice shall provide the address of the project, allowable hours of construction and information for tenants of the subject property on how to contact a Rent Board Housing Counselor by e-mail or phone and any other resource information deemed relevant.

(c) Mailing Fees. The applicant shall be responsible for the cost of materials, postage, and staff time necessary to process and mail notices.

Section 38. That Table 23.206-14- MU-R Development Standards within Section 23.206.090 is amended to read as follows:

TABLE 23.206-14: MU-R DEVELOPMENT STANDARDS

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
Lot Area, Minimum	23.304.020 – Lot

New Lot	No minimum	Requirements
Per ~~Dwelling Unit~~ or Live/Work Unit	1,250 sq. ft. ~~[4]~~	
Lot Width, Minimum	40 ft.	
Usable Open Space, Minimum		23.304.090 – Usable Open Space
Per ~~Dwelling Unit~~ <u>1,000 sq. ft. of gross residential floor area</u>	150 sq. ft.	
Per Live/Work Unit	40 sq. ft.	
Floor Area Ratio, Maximum, <u>Non-Residential</u>	~~1.0-5~~ <u>[21]</u>	<u>23.106.050 - Floor Area Ratio</u>
<u>Residential Density (DU/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>20</u>	
<u>Maximum</u>	<u>60</u>	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories ~~[32]~~	
Residential or mixed-use ~~[43]~~	35 ft. ~~and-or~~ 3 stories	
<u>Within 15 ft. of rear property line</u>	<u>22 ft.</u>	
All other uses	35 ft. and 2 stories ~~[54]~~	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	
Rear	No minimum ~~[65]~~	
Interior Side	No minimum	
Street Side	5 ft.	
Building Separation, Minimum	~~No minimum~~ <u>5 ft.</u>	
Lot Coverage, Maximum	~~100%~~ <u>No maximum</u>	

Notes:

~~[1] One additional dwelling unit allowed for remaining lot area between 750 and 1,250 square feet.~~

[21] Maximum 1.5 for buildings with 50 percent or more ~~residential or~~ live/work floor area

[32] Maximum 35 ft. with a Use Permit.

[43] Mixed use is defined here as a building with 50 percent or more of gross floor area used for residential (including live/work) purposes.

[54] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units.

[65] Minimum 5 ft. if rear of lot abuts a street.

~~[7] Setbacks required when abutting or confronting a Residential District. See 23.304.030.C.2.~~

Section 39. That Table 23.210-1: H Overlay Zone Maximum Allowed Height within Section 23.210.020 is amended to read as follows:

TABLE 23.210-1: H OVERLAY ZONE MAXIMUM ALLOWED HEIGHT

UNDERLYING BASE DISTRICT	ALLOWED HEIGHT		MAXIMUM STORIES
	AVERAGE	MAXIMUM	
New Buildings			
R-1, ~~R-1A~~ , R-2, R-2A	28 ft.	35 ft.	3 stories
R-3, R-4, R-5, R-S, C-N, C-NS	35 ft.	35 ft.	3 stories
Residential Additions	As required by the base district or the highest existing portion of the roof, whichever is lower	20 ft.	N/A

Section 40. That BMC Section 23.304.030(B)(1) is amended to read as follows:

- 1. Corner Lots with a Rear Lot Line Abutting a Key Lot.** For corner lots in the R-1, ~~R-1A~~, R-2 and R-2A districts with a rear lot line abutting a key lot, the minimum street side setback is either:

- (a) One-half the front setback required or existing on the key lot, whichever is less; or
- (b) Four feet if the corner lot maintains 50 feet or more rear setback.

Section 41: That Table 23.304-1 Allowed Setback Reductions in Residential District within BMC Section 23.304.030 is amended to read:

TABLE 23.304-1: ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
Front Setback Reductions				
ES-R	On any lot	No minimum.	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
Rear Setback Reductions				
ES-R [3]	On any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, ~~R-4A~~	On a lot less than 100 ft. deep	20% of lot depth [4]	ZC	None
~~R-1A~~	~~To construct a dwelling unit~~	~~12 ft.~~	~~AUP~~	~~The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.~~

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
R-2, R-2A, R-3, R-4, R-5 [45]	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
Side Setback Reductions				
ES-R [3]	Any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, ~~R-2, R-2A, R-4A~~	Lot width less than 40 ft. [5]	10% of lot width or 3 ft., whichever is greater	ZC	None
R-2 ~~H~~ , R-2A ~~H~~	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft., whichever is greater; Third story: ~~5~~ 4 ft.	ZC	None
Notes: [1] Findings are in addition to any AUP or Use Permit findings required in 23.406-Specific Permit Requirements. [2] Fire Department must review and approve reduced setbacks in respect to fire safety. [3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership. <u>[4] The resulting rear setback becomes the total setback required for the front and rear to add up to. Front and rear setbacks may not be less than 5 ft.</u> [45] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section. ~~[5] Not permitted for rear main buildings in the R-1A district.~~				

Section 42. That the line “R-1A” in Table 23.304-4: Permits Required for Building Separation in Residential Districts within BMC Section 23.304.040 is amended to read as follows

DISTRICT WHERE ALLOWED	WHEN ALLOWED	PERMIT REQUIRED	FINDINGS [1]
R-1A	On a lot with two or more main buildings with a dwelling unit	AUP	The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.

Section 43. That BMC Section 23.322.100(C)(1) is amended to read as follows:

1. General. The following requirements apply to required on-site loading spaces in all districts except for the R-1, ~~R-1A~~, R-2, R-2A districts.

- (a) *Dimensions.* A required loading space must be at least 12 feet wide and 25 feet long with a minimum vertical clearance of 14 feet.
- (b) *Location.* A required loading spaces must be located on the same lot as the structure or use the space is designed to serve.
- (c) *Parking Spaces.* A required parking space may not be used to satisfy the requirements for an off-street loading space.
- (d) *Access and Paving.* A required loading space must have adequate means of access from a street or alley. Both the space and access driveway must be paved with a durable, dustless material that is usable under all weather conditions.

Section 44. That BMC Section 23.324.050(D)(3)(a) is amended to read as follows:

- (a) A Use Permit is required for an addition to and/or enlargement of a structure or building that exceeds the maximum allowed lot coverage, or maximum floor area ratio, or is nonconforming to minimum or maximum residential density.

Section 45. That BMC Section 23.326.030(B)(1)(c) is amended to read as follows:

- (c) The demolition is necessary to permit construction approved pursuant to this Chapter of at least the same number of Residential Dwelling Units.

Section 46. That BMC Section 23.326.030(B)(2) is amended to read as follows:

2. A Single-Family Dwelling may be demolished with ~~an AUP~~ a Zoning Certificate, if the demolition is part of a development project that would result in a net increase in residential density.

Section 47. That BMC Section 23.406.020(E) is amended to read as follows:

E. Review and Action

1. The Zoning Officer shall review a Zoning Certificate application to verify compliance with the Zoning Ordinance. If the project complies with all applicable requirements, the Zoning Officer shall approve the application.

2. The Zoning Officer may attach to the Zoning Certificate project plans and other information as needed to document project compliance with the Zoning Ordinance.

3. The Zoning Officer may attach to the Zoning Certificate any applicable uniformly applied Standard Conditions of Approval.

Section 48. That BMC Section 23.502.020(M)(17) and (18) are amended to read as follows:

17. Multi-Family Dwelling. A building, group of buildings, or portion of a building used or designed as ~~three~~two or more dwelling units.

18. Multi-Family Residential. A residential use that includes two or more units, excluding ADUs and Junior ADUs, on a single lot.

1819. Municipal Animal Shelter. A City-owned facility providing services for humane animal care with programs and services focused on maximizing opportunities for animal adoption. Supporting facilities may include medical care (including spay/neuter), kennels, exercise areas and adoption centers.

Section 49. That BMC Section 23.502.020(R) is amended to read as follows:

R. "R" Terms.

~~1. Rear Main Building. A main building situated behind another main building existing or proposed on a parcel located in the R-1A district.~~

21. Receiving Lot. See Lot, Receiving.

32. Recycled Materials Processing. A facility that receives and processes recyclable materials. Processing means preparation of material for efficient

shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

43. *Recycling Redemption Center.* A facility, use, or structure for the collection of recyclable goods, including beverage containers and newspapers.

54. *Related Equipment.* All equipment necessary for or related to the provision of personal wireless services. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.

65. *Religious Assembly.* A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.

76. *Repair Service, Non-Vehicle.* An establishment that provides repair and maintenance services for household appliance, home electronics, office equipment, furniture and other similar items. Excludes vehicle repair.

87. *Research and Development.* An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

98. *Resident.* A person whose primary residence is in Berkeley.

910. *Residential Care Facility.* See Community Care Facility.

4410. *Residential Hotel.* See Hotel, Residential.

4211. *Residential Addition.* See Addition, Residential.

4312. *Residential Districts.* The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.

4413. *Residential Hotel Room.* A room which is:

- (a) Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;
- (b) Not a complete dwelling unit, as defined in this chapter; and
- (c) Not a Tourist Hotel Room, as defined in this chapter.

4514. Residential Use. Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.

4615. Retail, General. A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores and variety stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

4716. Retaining Wall. A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.

4817. Review Authority. The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.

4918. Rooming House. A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

Section 50. That BMC Section 23.502.020(S)(21) through 23.502.020(S)(36) is amended to read as follows:

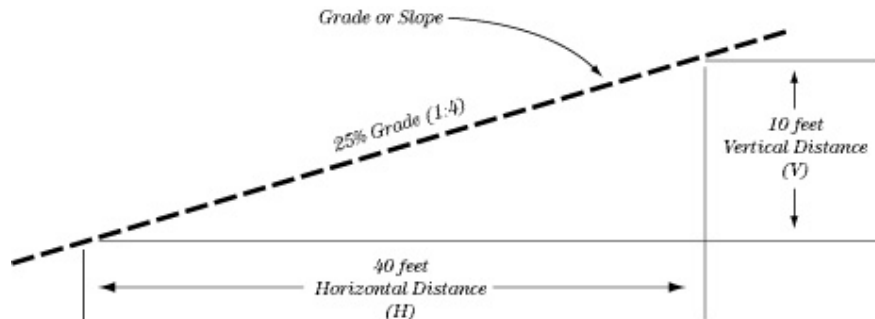
21. Single-Family Residential. A residential use that includes only one single-family dwelling, excluding ADUs and Junior ADUs, on a single lot.

2422. Single Residential Occupancy (SRO) Room. A room for residential or sleeping purposes in a residential hotel which is designed for occupancy of one person only.

2223. Skateboard Ramp. A ramp, platform, course or facility used for skateboard riding and made of wood or other solid material.

23-24 Slope. The steepness of a site, measured as the ratio of the vertical distance to the horizontal distance between the highest and lowest points of the site. See Figure 23.502-5: Grade or Slope.

FIGURE 23.502-5: GRADE OR SLOPE



2425. Small Vehicle Sales and Service. An establishment which sells or leases long-term new, used, or pre-owned motorized vehicles other than passenger automobiles and trucks which are characterized by fewer than four wheels or a minimal frame. Types of vehicles sold or leased by this use include motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles designed or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

2526. Smoke Shop. An establishment engaged primarily in the sale of tobacco and/or tobacco-related products.

2627. Solar Energy Device/Equipment. Any solar collector or other solar energy device or any structural design feature of a building of which the primary purpose is to provide for the collection, storage or distribution of solar energy for space heating or cooling, water heating or the generation of electricity.

2728. Sorority House. A building used for group living accommodations by an organization recognized by the UC Berkeley, or other institution of higher learning.

2829. Source Lot. See Lot, Source.

29-30. Story. See Section 23.106.060 (Story)

30-31. Street. A public or private thoroughfare which provides principal means of access to abutting lots, including but not limited to, avenue, place, way, manor, drive, circle, lane, court, boulevard, highway, road and any other thoroughfare except an alley or a path as defined in this chapter.

3432. Street Line. The boundary between a lot and an adjacent street.

32-33 Structural Alteration. Any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders or creation or enlargement of a window or door, change of a roofline or roof shape, including creating, enlarging or extending a dormer.

3334.. Structural Alteration, Public Safety. Any structural alteration or physical change to a building that provides greater safety to the public or occupants by strengthening the building against seismic activity, which does not result in new floor area except that created by necessary structural improvements or physical changes as required under Municipal Code Chapter 19.38 and 19.39.

34-35. Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. A building is a structure for the purposes of this chapter.

- (a) **Accessory Structure.** A detached structure, other than an accessory building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential accessory structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential accessory structures include, but are not limited to, storage buildings, garages, sheds and other outbuildings.
- (b) **Subterranean Structure.** A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed 3 feet above the pre-existing grade. Such structures are either separated from a building or connected to a building only by a passageway or hallway with no openings to finished grade except for a doorway.
- (c) **Temporary Structure.** A tent, tent-house, trailer, mobile office, mobile home or other movable structure or other temporary structure whose construction does not require a building permit.

35-36. Studio. See Art/Craft Studio.

36-37. Supportive Housing. As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3) and is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

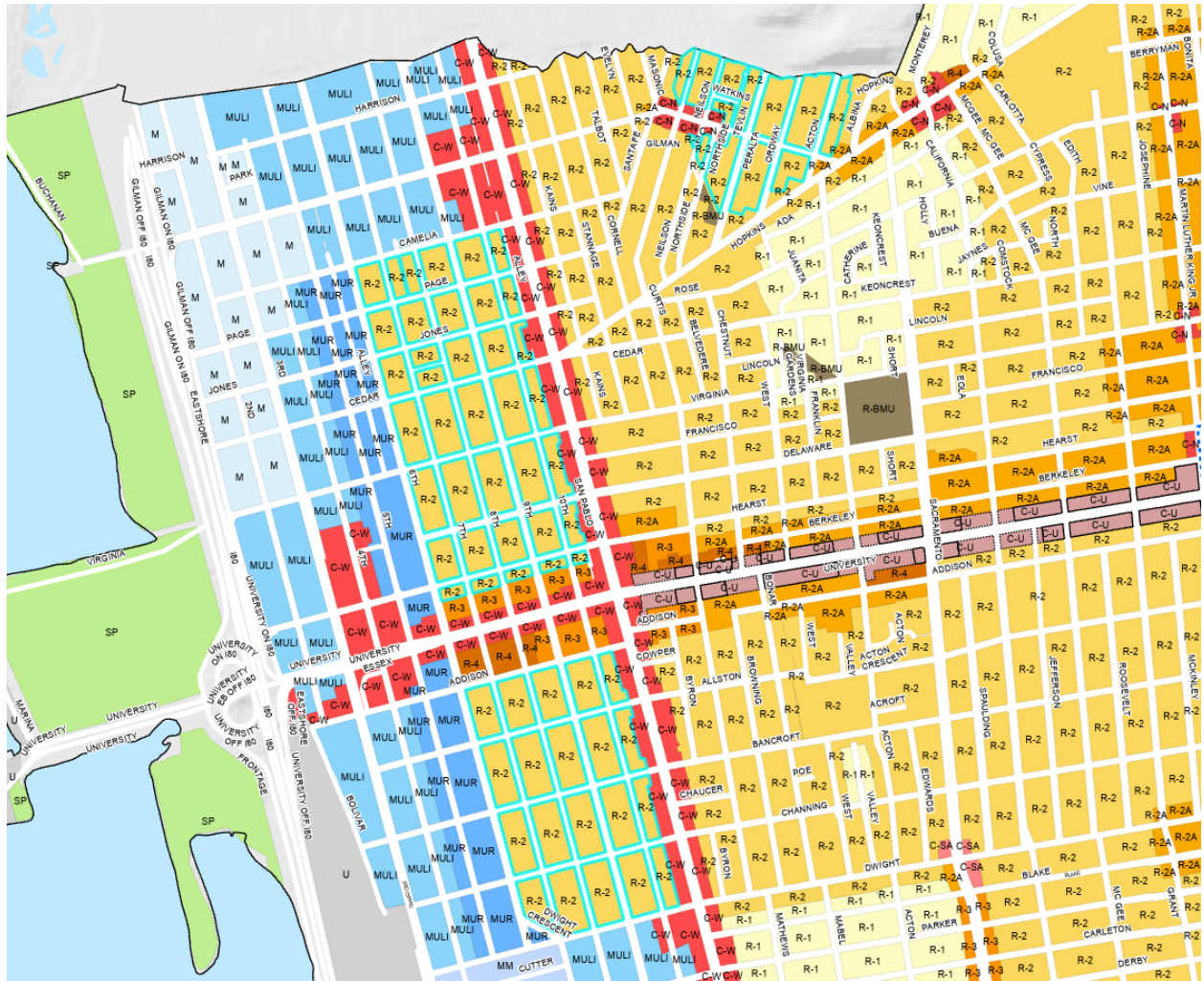
Section 51. That BMC Section 23.502.020(T)(14) is removed as follows:

~~14. **Two-Family Dwelling.** A building or use of a lot designed for, or occupied exclusively by, two households.~~

Section 52. The effective date of this Ordinance shall be September 1, 2025.

Section 53: Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

The zoning map below reflects the elimination of the R-1A zoning district and the redesignation of R-1A parcels as R-2 parcels. All affected parcels are outlined in light blue.



ATTACHMENT 2; annotated Ordinance

ORDINANCE NO. -N.S.

MIDDLE HOUSING ZONING AMENDMENTS

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

Section 1. That Table 23.108-1 Zoning Districts within BMC Chapter 23.108.020 is amended to read as follows:

Commented [HJ1]: Changing district names

TABLE 23.108-1: ZONING DISTRICTS

DISTRICT SYMBOL	NAME OF DISTRICT
Residential Districts	
R-1	~~Single-Family~~ Residential <u>Multi-Unit 1</u>
~~R-1A~~	~~Limited Two-family Residential~~
ES-R	Environmental Safety Residential
R-2	~~Restricted Two-family~~ Residential <u>Multi-Unit 2</u>
R-2A	~~Restricted Multiple-family~~ Residential <u>Multi-Unit 2A</u>
R-3	Multiple-family Residential
R-4	Multi-family Residential
R-5	High Density Residential
R-S	Residential Southside
R-SMU	Residential Southside Mixed Use
R-BMU	Residential BART Mixed Use
Commercial Districts	

DISTRICT SYMBOL	NAME OF DISTRICT
C-C	Corridor Commercial
C-U	University Avenue Commercial
C-N	Neighborhood Commercial
C-E	Elmwood Commercial
C-NS	North Shattuck Commercial
C-SA	South Area Commercial
C-T	Telegraph Avenue Commercial
C-SO	Solano Avenue Commercial
C-DMU	Downtown Mixed-Use
C-W	West Berkeley Commercial
C-AC	Adeline Corridor Commercial
Manufacturing Districts	
M	Manufacturing
MM	Mixed Manufacturing
MU-LI	Mixed Use-Light Industrial
MU-R	Mixed Use-Residential
Special Districts	
S	Specific Plan
U	Unclassified

Section 2. That Table 23.202-1 Allowed Land Uses in Residential Districts within BMC Section 23.202.020 is amended to read as follows:

Commented [HJ2]: Revising permit requirements; removing R-1A zoning district; retaining UP(PH) and NP in H overlay

TABLE 23.202-1: ALLOWED LAND USES IN RESIDENTIAL DISTRICTS

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **	
Residential Uses												
Accessory Dwelling Unit	See 23.306— Accessory Dwelling Units		NP	See 23.306—Accessory Dwelling Units								
Dwellings												
Single-Family Residential	ZC* UP(PH) Hillside Overlay	UP(PH)	UP(PH)	ZC* UP(PH) Hillside Overlay	ZC* UP(PH) Hillside Overlay	UP(PH) * -	UP(PH)	UP(PH)	UP(PH) * -	UP(PH) * -	NP	23.202.040(C) and (D) 23.302.070(H)
Two-Family	NP	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	23.302.070(H)
Multi-Family Residential	ZC* NP Hillside Overlay	NP	NP	ZC* NP UP(PH) Hillside Overlay	ZC* UP(PH) Hillside Overlay	UP(PH) * -	UP(PH)	UP(PH)	UP(PH) * -	UP(PH) * -	UP(PH)	23.202.040(D) 23.302.070(H)
Group Living Accommodation	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Senior Congregate Housing	NP	NP	NP	NP	See 23.302.070.H— Use-Specific Regulations							
Mixed-Use Residential	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Public and Quasi-Public Uses												
Child Care Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)
Club/Lodge	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.302.070(H)

Commented [HJ3]: Reference to new provisions restricting size of single-family homes (C) and noticing requirement (D)

Commented [HJ5]: Reference to new noticing requirement

Commented [HJ4]: Per existing BMC section, Multi-Family Residential is NP in the Hillside Overlay

23.210.020(B) Multiple Dwellings in R-2. When the H overlay zone is combined with the R-2 district, multiple dwellings on a single property are not permitted.

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU **	
											H)	
Columbaria	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	NP	23.302.070.C– Use-Specific Regulations
Community Care Facility	See 23.202.040.A– Use-Specific Regulations											
Community Center	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Emergency Shelter, 15 beds or fewer	NP	NP	NP	NP	NP	NP	ZC	ZC	ZC	ZC	ZC	23.308-Emergency Shelters
Emergency Shelter, more than 15 beds	NP	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.308-Emergency Shelters
Hospital	NP	NP	NP	NP	NP	UP(PH)	UP(PH)	UP(PH)	NP	UP(PH)	NP	
Library	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Low Barrier Navigation Center	ZC NP	NP	NP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Nursing Home	NP	NP	NP	–	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	NP	
Park/Playground	ZC	ZC	UP	ZC	ZC	ZC	ZC	ZC	ZC	ZC	ZC	
Public Safety and Emergency Service	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Public Utility Substation/Tank	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Religious Assembly	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
School	UP(PH)	UP(PH)	NP	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Supportive Housing	NP ZC*	NP	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	23.302.070.I-Supportive Housing
Commercial Uses												
Alcoholic Beverage Service	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC	UP(PH)	23.310—Alcoholic Beverage Sales and Service
Food Products Store	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH) *	UP(PH)	23.202.140.B.3– R-SMU Residential Southside

Commented [HJ6]: Technical edit: now that R-1 is a multi-family district, State law requires ministerial approval of Low Barrier Navigations Centers

Commented [HJ7]: Technical edit: now that R-1 is a multi-family district, State law requires ministerial approval of Supportive Housing (AB 2162)

ZC = Zoning Certificate AUP = ADMINISTRATIVE USE PERMIT UP(PH) = Use Permit NP = Not Permitted * Use-Specific Regulations Apply **Required permits for specific uses are set forth in the R-BMU Master Development Permit (MDP). See 23.202.150.A and 23.202.150.D	RESIDENTIAL DISTRICTS											USE-SPECIFIC REGULATIONS APPLIES TO USES WITH AN ASTERISK FOLLOWING THE PERMIT REQUIREMENT (E.G., ZC*)
	R-1	R-1A	ES-R	R-2	R-2A	R-3	R-4	R-5	R-S	R-SMU	R-BMU**	
Live Entertainment Amplified	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP	NP	
Industrial and Heavy Commercial Uses												
Commercial Excavation	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	
Other Uses												
Accessory Uses	See 23.302.020.A– General Use Regulations											
Art/Craft Studio	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	ZC
ATM: Exterior and Attached to Bank or Interior or Exterior and Not With Bank	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP
Home Occupations	See 23.302.040– Home Occupations											
Live/Work	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	UP(PH))
Public Market, Open Air	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP
Public Market, Enclosed	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	AUP
Short-Term Rental	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*
												23.314—Short-Term Rentals
Temporary Uses	See 23.302.030– Temporary Uses and Structures											
Urban Agriculture, Low-Impact	ZC*	ZC*	NP	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*	ZC*
												23.318—Urban Agriculture
Urban Agriculture, High-Impact	AUP*	AUP*	NP	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*	AUP*
												23.318—Urban Agriculture
Wireless Telecommunication Facility	See 23.332—Wireless Communication Facilities											

Section 3. That BMC Section 23.202.030(A) is amended to read as follows:

Commented [HJ8]: Removing additional permit requirements for Additions in the R-1, R-2 and R-2A

A. **Residential Additions.** See Section 23.502.020(A) ("A" Terms) for residential addition definitions.

1. **Permits Required.**

(a) In the ES-R district, residential additions require permits as follows:

- i. Residential additions up to 10 percent of lot area or 200 square feet, whichever is less: Zoning Certificate.
- ii. Major residential additions more than 10 percent of lot area or 200 square feet, whichever is less: Use Permit.

~~(b) In the R-3, R-S, R-SMU and C-T districts within the Southside Plan boundaries, any residential addition requires a Zoning Certificate.~~

Commented [HJ9]: Technical edit: no need to state ZC permit requirement.

~~(c-b) In all other Residential Districts the R-1H, R-1AH, R-2H, and R-2AH, and the R-3 district outside the Southside Plan boundaries, and in the R-4, R-5 and R-BMU districts, residential additions require permits as follows:~~

- i. Residential additions (up to 15 percent of lot area or 600 square feet, whichever is less): Zoning Certificate.
- ii. Major residential additions (all other residential additions): AUP.

Section 4. That BMC Section 23.202.030(B)(1) is amended to read as follows:

Commented [HJ10]: Removing permit requirements for additional bedrooms in the R-1, R-2 and R-2A.

1. In the R-1H, R-1A, R-2H, R-2AH, and R-3, and R3-H districts, adding a bedroom to a lot requires permits as follows:

- (a) Adding a first, second, third, or fourth bedroom to a lot: no permit required.
- (b) Adding a fifth bedroom to a lot: AUP.
- (c) Adding a bedroom to a lot beyond the fifth: Use Permit.

~~(d) No permit is required to add up to two bedrooms in an existing dwelling unit through the reconfiguration of existing habitable space, regardless of the number of bedrooms on the existing lot.~~

Commented [HJ11]: Technical edit to conform with AB 916.

Section 5. That BMC Section 23.202.040(C) and (D) be added to read as follows:

Commented [HJ12]: Restriction on the size of a single family home on single lot (C) AND noticing requirement (D).

C. One Single-Family Residential Use on a Single Lot in the R-1, R-2 and R-2A districts.

(1) This section applies on lots with one existing or proposed single-family residential dwelling on a single lot, for new construction or residential additions.

(a) The residential gross floor area of a single-family residential dwelling may be no larger than 50 percent of the lot area, or 2,500 square feet, whichever is greater.

(b) A single-family residential dwelling may exceed the size limitations in this section with an AUP.

(c) This subsection shall not apply to parcels located in the Hillside Overlay Zone.

D. ~~Noticing~~ for New Dwelling Uses in the R-1, R-2, and R-2A Zoning Districts

Commented [HJ13]: Noticing requirement.

(1) This section applies to proposed new dwelling units, other than ADUs, located in the R-1, R-2 and R-2A zoning districts and are eligible for approval with a Zoning Certificate, as indicated in Table 23-202-1 Allowed Land Uses in Residential Districts.

(a) Scope and Timing of Notice. The City shall mail a courtesy notice to tenants of the subject property, and owners and tenants of the adjacent, confronting, and abutting properties, within ten working days of submission of the application to the City.

(b) Content of Notice. Notice shall provide the address of the project, allowable hours of construction and information for tenants of the subject property on how to contact a Rent Board Housing Counselor by e-mail or phone and any other resource information deemed relevant.

(c) Mailing Fees. The applicant shall be responsible for the cost of materials, postage, and staff time necessary to process and mail notices.

(d) This subsection shall not apply to parcels located in the Hillside Overlay Zone.

Section 6. That BMC Section 23.202.050(A) is amended to read as follows:

Commented [HJ14]: Revising name of R-1 district; amending and revising the district purpose statement.

A. **District Purpose.** The purpose of the ~~Single-Family~~ Residential Multi-Unit 1 (R-1) district is to:

1. Implement the General Plan by facilitating the development of residential areas consistent with a pattern of housing types ranging from single-family to small apartment structures. Recognize and protect the existing pattern of development in the low-density, single-family residential areas of the city consistent with the General Plan;
2. Make housing available for persons who desire detached and multi-unit

housing ~~with and a relatively large amount of~~ usable open space;

3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air; and
4. Permit community facilities such as religious assembly uses, schools, parks, and libraries which serve the local population and are not detrimental to the immediate neighborhood.

Section 7. That the title of BMC Section 23.202.050 is amended to read as follows:

23.202.050 – R-1 ~~Single-Family~~ Residential Multi-Unit 1 District

Commented [HJ15]: Conforming edit: R-1 name change

Section 8. That BMC Chapter 23.202.050(D)(1) R-1 Development Standards is amended to read as follows:

D. Development Standards.

1. Basic Standards. See Table 23.202-2: R-1 Development Standards and Table 23.202-3: R-1H Development Standards.

Commented [HJ16]: Adding development standards table for R-1H

Section 9. That Table 23.202-2 R-1 Development Standards within BMC Chapter 23.202.050 is amended to read as follows:

Commented [HJ17]: Revision of Development Standards

Table 23.202-2 R-1 Development Standards

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	23.304.020 – Lot Requirements
Usable Open Space ~~per Dwelling Unit~~ <u>1,000 sq. ft. of Gross Residential Floor Area</u> , Minimum	~~400~~ <u>150</u> sq. ft.	23.304.090 – Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, ~~Average Maximum~~		23.304.050 – Building Height
New Buildings ~~or and Non-Residential~~ Additions	~~28~~ <u>35</u> ft. ~~and or~~ 3 stories [1]	
<u>Within 15 ft. of Rear Property Line</u>	<u>22 ft.</u>	
<u>Residential Density (du/acre)</u>		<u>23.106.100 – Residential Density</u>
<u>Minimum</u>	<u>10</u>	
<u>Maximum</u>	<u>40</u>	

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front [1]	<u>5</u> 20 ft.	
Rear [1]	<u>5</u> 20 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Building Separation, Minimum	No minimum <u>5</u> ft.	23.304.120 – Lot Coverage
Lot Coverage, Maximum	40% 60%	
Notes:		
[1] Front and rear setbacks must add up to at least 20 feet.		

Table 23.202-3 R-1H Development Standards

Commented [HJ18]: Separate development standards table for Hillside Overlay

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area for New Lots, Minimum	5,000 sq. ft.	<u>23.304.020 – Lot Requirements</u>
Usable Open Space per Dwelling Unit, Minimum	<u>400</u> sq. ft.	<u>23.304.090 – Usable Open Space</u>
Floor Area Ratio, Maximum	No maximum	
Building Height		<u>23.210.020 – Hillside Overlay Zone</u>
<u>New Buildings or Non-Residential Additions, Average</u>	<u>28</u> ft. and 3 stories [1]	
<u>New Buildings or Non-Residential Additions, Maximum</u>	<u>35</u> ft.	
<u>Residential Additions</u>		
<u>Average</u>	<u>14</u> ft. or highest existing portion of roof, whichever is lower [2]	<u>23.304.050 – Building Height</u>
<u>Maximum</u>	<u>20</u> ft [3]	
<u>Lot Line Setbacks, Minimum</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>Front</u>	<u>20</u> ft.	
<u>Rear</u>	<u>20</u> ft.	
<u>Interior Side</u>	<u>4</u> ft.	<u>23.304.030 – Setbacks</u>

<u>BASIC STANDARDS</u>		<u>SUPPLEMENTAL STANDARDS</u>
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>No minimum</u>	
<u>Lot Coverage, Maximum</u>	<u>40%</u>	<u>23.304.120 – Lot Coverage</u>
<u>Notes:</u> <u>[1] Average Building Height 35 ft. with an AUP.</u> <u>[2] Average Building Height greater than 14 ft. up to 28 ft. allowed with an AUP. Average building height greater than 28 ft up to 35 ft allowed with an additional AUP.</u> <u>[3] Maximum building height greater than 20 ft. allowed with an AUP pursuant to BMC 23.210.020(C)(2).</u>		

Section 10. That BMC Chapter 23.202.060 is amended as follows:

23.202.060 ~~R-1A Limited Two-Family Residential District Reserved~~

A. **~~District Purpose.~~** ~~The purpose of the Limited Two-Family Residential (R-1A) district is to:~~

- ~~1. Recognize and protect the existing pattern of low medium-density residential areas characterized by reasonable open and spacious type of development consistent with the General Plan;~~
- ~~2. Protect adjacent properties from unreasonable obstruction of light and air;~~
- ~~3. Allow flexibility in the use of property for residential purposes by permitting two dwelling units on one lot under limited conditions; and~~
- ~~4. Appropriately regulate the rear and side setback areas for the construction of a dwelling unit in areas west of San Pablo Avenue.~~

B. **~~Allowed Land Uses.~~** ~~See Table 23.202-1: Allowed Land Uses in Residential Districts~~

C. **~~Additional Permit Requirements.~~** ~~See Subsection A (Residential Additions) and Subsection B (Adding Bedrooms) of Section 23.202.030 Additional Permit Requirements.~~

D. **~~Development Standards.~~**

- ~~1. **Basic Standards.** See Table 23.202-3: R-1A Development Standards.~~
- ~~2. **Supplemental Standards.** Supplemental development standards that apply in the R-1A district are noted in Table 23.202-3: R-1A Development Standards.~~

Commented [HJ19]: Repeal of R-1A zoning district, which is being merged with R-2.

TABLE 23.202-3: R-1A DEVELOPMENT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020—Lot Requirements
New Lots	5,000 sq. ft.	
For Two Dwelling Units	4,500 sq. ft. [1]	
Usable Open Space Per Dwelling Unit, Minimum	400 sq. ft. [2]	23.304.090—Usable Open Space
Floor Area Ratio, Maximum	No maximum	
Main Building Height, Average		23.304.050—Building Height
New Buildings and Non-Residential Additions	28 ft. and 3 stories [3]	
Rear Main Buildings	22 ft. and 2 stories	
Residential Additions	14 ft. [4]	
Lot Line Setbacks, Minimum		23.304.030—Setbacks
Front	20 ft.	
Rear	20 ft.	
Interior Side	4 ft.	
Street Side	4 ft.	
Interior and Street Side for Rear Main Building	6 ft.	
Building Separation, Minimum		23.304.040—Building Separation in Residential Districts
1-story	8 ft.	
2-stories	12 ft.	
3-stories	16 ft.	
Lot Coverage, Maximum		23.304.120—Lot Coverage
Interior and Through Lot	40%	
Corner Lot	45%	

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
Notes: [1] Maximum two units per lot. [2] Open space is not required for accessory dwelling unit. [3] Maximum 35 ft. with an AUP. [4] Height greater than 14 ft. up to 28 ft. allowed with an AUP. Height greater than 28 ft up to 35 ft allowed with an additional AUP.	

Section 11. That the title of BMC Section 23.202.080 is amended to read as follows:

Commented [HJ20]: Renaming R-2 district

23.202.080- R-2 ~~Restricted Two-Family~~ Residential Multi-Unit 2 District

Section 12. That BMC Section 23.202.080(A) is amended to read as follows:

Commented [HJ21]: Revising R-2 district purpose statement

A. **District Purpose.** The purpose of the ~~Restricted Two-Family~~ Residential Multi-Unit 2 (R-2) district is to:

1. Implement the General Plan by encouraging the development of ~~low-medium-density~~ residential areas ~~characterized by a reasonably open and spacious type of development with a pattern with a range~~ of housing types ~~ranging from single-family to duplexes and small apartment structures~~;
2. Make available housing for persons who desire a range of housing choice with ~~a relatively large amount of~~ useable open space; and
3. Provide objective standards to protect adjacent properties from unreasonable obstruction of light and air.

Section 13 That BMC Section 23.202.080(D) is amended to read as follows:

Commented [HJ22]: Revising development standards; adding separate development standards table for Hillside Overlay.

D. **Development Standards.**

1. **Basic Standards.** See Table 23.202-5: R-2 Development Lot and Height Standards, Table 23.202-6: R-2H Development Standards, Table 23.202-~~76~~: R-2H Setback and Building Separation Standards, and Table 23.202-~~87~~: R-2H Lot Coverage Standards for development standards in the R-2 district.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2 district are noted in Table 23.202-5: R-2 Development Lot and Height Standards, Table 23.202-6: R-2H Development Standards, Table 23.202-~~76~~: R-2H Setback and Building Separation Standards and Table 23.202-~~87~~: R-2H Lot Coverage Standards.

TABLE 23.202-5: R-2 ~~LOT AND HEIGHT DEVELOPMENT~~ STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		23.304.020 – Lot Requirements
New Lots	5,000 sq. ft.	
~~Per Dwelling Unit~~	~~2,500 sq. ft. [1]~~	23.304.090 – Usable Open Space
~~Usable Open Space, per Dwelling Unit~~ ~~Per 1,000 sq. ft. of gross residential floor area, Minimum~~	~~400 150 sq. ft.~~	
Floor Area Ratio, Maximum	No maximum	
Main Building Height, ~~Average~~		23.304.050 – Building Height
New Buildings and ~~Non-Residential~~ Additions, ~~Maximum~~	~~28 35 ft. and or 3 stories [2]~~	
~~Within 15 feet of Rear Property Line, Maximum~~	~~22 ft.~~	
~~Residential Additions~~	~~14 ft. [3]~~	
Residential Density (du/acre)		~~23.106.100 – Residential Density~~
~~Minimum~~	~~10~~	
~~Maximum~~	~~50~~	
~~Lot Line Setbacks, Minimum~~		~~23.304.030 – Setbacks~~
~~Front [1]~~	~~5 ft.~~	
~~Rear [1]~~	~~5 ft.~~	
~~Interior Side~~	~~4 ft.~~	
~~Street Side~~	~~4 ft.~~	
~~Building Separation, Minimum~~	~~5 ft.~~	
~~Lot Coverage, Maximum~~	~~60%~~	~~23.304.120 – Lot Coverage~~
Notes:		
~~[1] One additional dwelling unit is allowed for any remaining lot area between 2,000 and 2,500 square feet. Front and rear setbacks must add up to at least 20 feet.~~		
~~[2] Maximum 35 ft. with an AUP.~~		
~~[3] Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft allowed with an additional AUP.~~		

TABLE 23.202-6: R-2H DEVELOPMENT STANDARDS

Commented [HJ23]: Separate development standards table for Hillside Overlay

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
<u>Lot Area, Minimum</u>		<u>23.304.020 – Lot Requirements</u>
<u>New Lots</u>	<u>5,000 sq. ft.</u>	
<u>Usable Open Space, Per Dwelling Unit, Minimum</u>	<u>400 sq. ft.</u>	<u>23.304.090 – Usable Open Space</u>
<u>Floor Area Ratio, Maximum</u>	<u>No maximum</u>	
<u>Main Building Height, Average</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>New Buildings and Non-Residential Additions</u>	<u>28 ft. and 3 stories [1]</u>	
<u>New Buildings and Non-Residential Additions, Maximum</u>	<u>35 ft.</u>	
<u>Residential Addition, Height</u>		<u>23.304.050 – Building Height</u>
<u>Average</u>	<u>14 ft. or highest existing portion of roof, whichever is lower [2]</u>	
<u>Maximum</u>	<u>20 ft. [3]</u>	
<u>Lot Coverage, Maximum</u>	<u>See Table 23.202-8</u>	<u>23.304.120 – Lot Coverage</u>
<u>Notes:</u> <u>[1] Average Building Height 35 ft. with an AUP.</u> <u>[2] Average Building Height greater than 14 ft. up to 28 ft. allowed with an AUP.</u> <u>Average building height greater than 28 ft up to 35 ft allowed with an additional AUP.</u> <u>[3] Maximum building height greater than 20 ft. allowed with an AUP pursuant to BMC 23.210.020(C)(2).</u>		

TABLE 23.202-67: R-2H SETBACK AND BUILDING SEPARATION STANDARDS

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1ST	2ND	3RD	
<u>Lot Line Setbacks, Minimum</u>				<u>23.304.030– Setbacks</u>
<u>Front</u>	<u>20 ft.</u>	<u>20 ft.</u>	<u>20 ft.</u>	

Rear	20 ft.	20 ft.	20 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	10 ft.	10 ft.	10 ft.	
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	23.304.040– Building Separation in Residential Districts

TABLE 23.202-78: R-2H LOT COVERAGE STANDARDS

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				23.304.120– Lot Coverage
Interior and Through Lot	45%	40%	35%	
Corner Lot	50%	45%	40%	

Section 14. That the title BMC Section 23.202.090 is amended to read as follows:

Commented [HJ24]: Revising name of R-2A district

23.202.090- R-2A ~~Restricted Multiple-Family~~ Residential Multi-Unit 2A District

Section 15. That BMC Section 23.202.090(A) is amended to read as follows:

Commented [HJ25]: Revising R-2A district purpose statement.

A. **District Purpose.** The purpose of the ~~Restricted Multiple-Family~~ Residential Multi-Unit 2A (R-2A) district is to:

1. Implement the General Plan by ~~encouraging~~ facilitating the development of ~~medium-density~~ residential areas characterized by a range of housing types ~~small multiple-family and garden-type apartment structures with a maximum of open space consistent with this type of development;~~
2. Make available housing for persons who desire apartment-type accommodations with ~~a maximum of~~ open space; and
3. Provide objective standards to P-protect adjacent properties from unreasonable obstruction of light and air; and
4. ~~Permit only land-use intensity which is compatible with existing low-density residential structures and is not detrimental to the immediate neighborhood.~~

Section 16. That BMC Section 23.202.090(D) is amended to read as follows:

Commented [HJ26]: Revising R-2A development standards; separate development standard table for the Hillside Overlay.

D. Development Standards.

1. **Basic Standards.** See Table 23.202-98: R-2A Lot and Height Development Standards, Table 23.202-10 R-2AH Development Standards, Table 23.202-119: R-2AH Setback and Building Separation Standards, and Table 23.202-1240: R-2AH Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-2A district are noted in Table 23.202-98: R-2A Lot and Height Development Standards, Table 23.202-10 R-2AH Development Standards, Table 23.202-119: R-2AH Setback and Building Separation Standards, and Table 23.202-1240: R-2AH Lot Coverage Standards.

TABLE 23.202-98: R-2A LOT AND HEIGHT DEVELOPMENT STANDARDS

BASIC STANDARDS		SUPPLEMENTAL STANDARDS
Lot Area, Minimum		
New Lots	5,000 sq. ft.	23.304.010 - <u>Lot Requirements</u>
<u>Per Dwelling Unit</u>	<u>1,650 sq. ft. [1]</u>	
<u>Usable Open Space, per Dwelling Unit, Per 1,000 sq. ft. gross residential floor area Minimum</u>	<u>400-150 sq. ft</u>	23.304.090 - <u>Usable Open Space</u>
Main Building Height, ~~Average~~		23.304.050 – Building Height
New Buildings and ~~Non-Residential~~ Additions, <u>Maximum</u>	<u>28 35 ft. or and</u> 3 stories	
<u>Within 15 ft. of Rear Property Line, Maximum</u>	<u>22 ft.</u>	
<u>Residential Additions</u>	<u>14 ft. [3]</u>	
<u>Residential Density (du/acre)</u>		23.106.100 – <u>Residential Density</u>
<u>Minimum</u>	<u>20</u>	
<u>Maximum</u>	<u>60</u>	
<u>Lot Line Setbacks, Minimum</u>		23.304.030 – <u>Setbacks</u>
<u>Front [1]</u>	<u>5 ft.</u>	
<u>Rear [1]</u>	<u>5 ft.</u>	

<u>Interior Side</u>	<u>4 ft.</u>	
<u>Street Side</u>	<u>4 ft.</u>	
<u>Building Separation, Minimum</u>	<u>5 ft.</u>	
<u>Lot Coverage, Maximum</u>	<u>60%</u>	<u>23.304.120 – Lot Coverage</u>
<u>Notes:</u> <u>[1] Front and rear setbacks must add up to at least 20 feet.</u> <u>[1] One additional dwelling unit is allowed for remaining lot area between 1,300 and 1,650 square feet.</u> <u>[2] Maximum 35 ft. with an AUP.</u> <u>[3] Addition height greater than 14 ft. up to 28 ft. allowed with an AUP. Addition height greater than 28 ft up to 35 ft allowed with an additional AUP.</u>		

TABLE 23.202-10: R-2AH DEVELOPMENT STANDARDS

<u>BASIC STANDARDS</u>		<u>SUPPLEMENTAL STANDARDS</u>
<u>Lot Area, Minimum</u>		
<u>New Lots</u>	<u>5,000 sq. ft.</u>	<u>23.304.010 - Lot Requirements</u>
<u>Per Dwelling Unit</u>	<u>1,650 sq. ft. [1]</u>	
<u>Usable Open Space, per Dwelling Unit, Minimum</u>	<u>400 sq. ft</u>	<u>23.304.090 – Usable Open Space</u>
<u>Main Building Height, Average</u>		<u>23.210.020 – Hillside Overlay Zone</u>
<u>New Buildings and Non-Residential Additions</u>	<u>28 ft. and 3 stories [2]</u>	<u>23.304.050 – Building Height</u>
<u>Residential Additions, Height</u>		
<u>Average</u>	<u>14 ft. or highest existing portion of roof, whichever is lower. [3]</u>	
<u>Maximum</u>	<u>20 ft. [4]</u>	

Commented [HJ27]: Preserving existing standards within Hillside Overlay

Notes:

[1] One additional dwelling unit is allowed for a remaining lot area between 1,300 and 1,650 square feet.

[2] Average Building Height 35 ft. with an AUP.

[3] Average Building Height greater than 14 ft. up to 28 ft. allowed with an AUP.

Average building height greater than 28 ft up to 35 ft allowed with an additional AUP.

[4] Maximum building height greater than 20 ft. allowed with an AUP pursuant to BMC 23.210.020(C)(2).

TABLE 23.202-~~119~~: R-2A~~H~~ SETBACK AND BUILDING SEPARATION STANDARDS

	STANDARDS BY BUILDING STORY			SUPPLEMENTAL STANDARDS
	1 ST	2 ND	3 RD	
Lot Line Setbacks, Minimum				23.304.030– Setbacks
Front	15 ft.	15 ft.	15 ft.	
Rear	15 ft.	15 ft.	15 ft.	
Interior	4 ft.	4 ft.	6 ft.	
Street Side	6 ft.	8 ft.	10 ft.	
Building Separation, Minimum	8 ft.	12 ft.	16 ft.	23.304.040– Building Separation in Residential Districts

TABLE 23.202-~~1240~~: R-2A~~H~~ LOT COVERAGE STANDARDS

	STANDARD BASED ON BUILDING HEIGHT			SUPPLEMENTAL STANDARDS
	1 STORY	2 STORIES	3 STORIES	
Lot Coverage, Maximum				23.304.120
Interior and Through Lots	45%	40%	35%	
Corner Lots	50%	45%	40%	

Section 17. That BMC Section 23.202.100(E)(2) is amended to read as follows:

Commented [HJ28]: Renumbering

3. **Supplemental Standards.** Supplemental development standards that apply in the R-3 district are noted in Table 23.202-~~4113~~: R-3 Development

Standards.

Section 18. That the title of Table 23.202-11: R-3 Development Standards within BMC Section 23.202.100 is amended to read as follows:

Commented [HJ29]: Renumbering

TABLE 23.202-~~1344~~: R-3 DEVELOPMENT STANDARDS

Section 19. That the BMC Sections 23.202.110(E)(1) and (2) are amended to read as follows:

Commented [HJ30]: Renumbering

E. Development Standards.

1. **Basic Standards.** See Table 23.202-~~1442~~: R-4 Lot and Height Standards, Table 23.202-~~1543~~: R-4 Setback and Building Separation Standards, and Table 23.202-~~1644~~: R-4 Lot Coverage Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-4 district are noted in Table 23.202-~~1442~~: R-4 Lot and Height Standards, Table 23.202-~~1543~~: R-4 Setback and Building Separation Standards, and Table 23.202-~~1644~~: R-4 Lot Coverage Standards.

Section 20. That the title of Table 23.202-12: R-4 Lot and Height Standards within BMC Section 23.202.110 is amended to read as follows:

Commented [HJ31]: Renumbering

TABLE 23.202-~~1442~~: R-4 LOT AND HEIGHT STANDARDS

Section 21. That the title of Table 23.202-13: R-4 Setback and Building Separation Standards within BMC Section 23.202.110 is amended to read as follows:

Commented [HJ32]: Renumbering

TABLE 23.202-~~1543~~: R-4 SETBACK AND BUILDING SEPARATION STANDARDS

Section 22. That the title of Table 23.202-14: R-4 Lot Coverage Standards within BMC Section 23.202.110 is amended to read as follows:

Commented [HJ33]: Renumbering

TABLE 23.202-~~1644~~: R-4 LOT COVERAGE STANDARDS

Section 23. That BMC Section 23.202.120(D)(1) and (2) be amended to read as follows:

Commented [HJ34]: Renumbering

D. Development Standards.

1. **Basic Standards.** See Table 23.202-~~175~~: R-5 Lot and Height Standards, Table 23.202-~~186~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~197~~: R-5 Lot Coverage Standards.

2. **Supplemental Standards.** Supplemental development standards that apply in the R-5 district are noted in Table 23.202-~~175~~: R-5 Lot and Height Standards, Table 23.202-~~186~~: R-5 Setback and Building Separation Standards, and Table 23.202-~~197~~: R-5 Lot Coverage Standards.

Section 24. That the title of Table 23.202-15: R-5 Lot and Height Standards within BMC Section 23.202.120 is amended to read as follows:

Commented [HJ35]: Renumbering

TABLE 23.202-~~175~~: R-5 LOT AND HEIGHT STANDARDS

Section 25. That the title of Table 23.202-16: R-5 Setback and Building Separation Standards within BMC Section 23.202.120 is amended to read as follows:

Commented [HJ36]: Renumbering

TABLE 23.202-~~186~~: R-5 SETBACK AND BUILDING SEPARATION STANDARDS

Section 26. That the title of Table 23.202-17: R-5 Lot Coverage Standards within BMC Section 23.202.120 is amended to read as follows:

Commented [HJ37]: Renumbering

TABLE 23.202-~~197~~: R-5 LOT COVERAGE STANDARDS

Section 27. That BMC Section 23.202.130(E)(1) and (2) are amended to read as follows:

Commented [HJ38]: Renumbering

E. Development Standards.

1. **Basic Standards.** See Table 23.202-~~2018~~: R-S Development Standards.
2. **Supplemental Standards.** Supplemental development standards that apply in the R-S district are noted in Table 23.202-~~2018~~: R-S Development Standards.

Section 28. That the title of Table 23.202-18: R-S Development Standards within BMC Section 23.202.130 is amended to read as follows:

Commented [HJ39]: Renumbering

TABLE 23.202-~~2018~~: R-S DEVELOPMENT STANDARDS

Section 29. That BMC Section 23.202.140(E)(1) is amended to read as follows:

Commented [HJ40]: Renumbering

1. **Basic Standards.** See Table 23.202-2~~149~~: R-SMU Development Standards.

Section 30. That the title of Table 23.202-19: R-SMU Development Standards within BMC Section 23.202.140 is amended to read as follows:

Commented [HJ41]: Renumbering

TABLE 23.202-~~219~~: R-SMU DEVELOPMENT STANDARDS

Section 31. That BMC Section 23.202.150(D) is amended to read as follows:

Commented [HJ42]: Renumbering

D. **Ground-floor Uses.** See Table 23.202-~~220~~: Permitted Street-Facing Ground Floor Uses.

Section 32. That the title of Table 23.202-20: Permitted Street-Facing Ground Floor Uses within BMC Section 23.202.150 is amended to read as follows:

Commented [HJ43]: Renumbering

TABLE 23.202-~~220~~: PERMITTED STREET-FACING GROUND FLOOR USES

Section 33. That BMC Section 23.202.150(F)(1) and (2) are amended to read as follows:

Commented [HJ44]: Renumbering

1. **Basic Standards.** See Table 23.202-~~2324~~.
2. **Supplemental Standards.** Supplemental standards that apply in the R- BMU district are noted in Table 23.202-~~2324~~.

Section 34. That the title of Table 23.202-21 within BMC Section 23.202.150 is amended to read:

Commented [HJ45]: Renumbering

TABLE 23.202-~~2324~~: R-BMU DEVELOPMENT STANDARDS

Section 35. That the lines “Single-Family,” “Two Family,” and “Multi-Family” in Table 23.204-1: Allowed Land Uses in Commercial Districts within BMC Section 23.204.020 are amended to read as follows:

Commented [HJ46]: Land Use Type name changes only

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit NP = Not Permitted -- = Permitted with AUP, see 23.204.020(B) [#] = Table Note Requirement * Use-Specific Regulations Apply	COMMERCIAL DISTRICTS											USE-SPECIFIC REGULATIONS
	C-C	C-U	C-N	C-E	C-NS	C-SA	C-T	C-SO	C-DMU	C-W	C-AC	
Residential Uses												
Single-Family ~~Residential~~	UP(H)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3; 23.302.070.H
Two-Family	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	~~23.204.060.B.3;~~ ~~23.302.070.H~~
Multi- ~~Unit~~ ~~Residential Family~~	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)*	UP(PH)	UP(PH)	UP(PH)	UP(PH)	23.204.060.B.3; 23.302.070.H

Section 36. That the lines “Single Family,” “Two Family,” “Multi-Unit Family” and “Mixed Use Residential” in Table 23.206-1: Allowed Land Uses in Manufacturing Districts within BMC Section 23.206.020 are amended to read as follows:

Commented [HJ47]: Revised permit requirements

ZC = Zoning Certificate AUP = Administrative Use Permit UP(PH) = Use Permit -- = Permitted with an AUP, see 23.206.020(B) NP = Not Permitted [#] = Floor Area Permit Requirement * Use-Specific Standards Apply	MANUFACTURING DISTRICTS				Use-Specific Standards Applies to uses with an asterisk following the permit requirement (e.g., ZC*)
	M	MM	MU-LI	MU-R	
Residential Uses					
Dwellings					
Single-Family Residential	NP	NP	NP	AUP	23.206.090.B.8
Two-Family	NP	NP	NP	AUP*	23.206.090.B.8
Multi-Unit Residential Family	NP	NP	NP	ZC* UP(PH)	23.206.090.(B).7 &8
Mixed-Use Residential	NP	NP	NP	UP(PH) * -	23.206.090.(B).7) 8&9

Section 37. That BMC Section 23.206.090(B)(7) to (9) are amended to read as follows:

Commented [HJ48]: Removing additional requirements for multi-family residential

7. Multi-Family Dwellings. Table 23.206-13 shows permits required for multi-family dwellings in the MU-R district.

TABLE 23.206-13: MU-R MULTI-FAMILY DWELLING PERMIT REQUIREMENTS

NUMBER OF UNITS	PERMIT REQUIRED
3 or 4	AUP
5 or more	UP(PH)

8. Residential Uses.

(a) A Use Permit is required to establish a dwelling unit, group living accommodation, or live/work unit MU-R that is within 150 feet of:

An M or MM district; or

A construction product manufacturing or primary product manufacturing use.

(b) To deny a Use Permit required by Paragraph (a) above, the ZAB must find that:

~~The proposed residential use would unreasonably interfere with existing or reasonably foreseeable adjacent land uses in the M or MM district; or~~
~~Existing or reasonably foreseeable adjacent land uses in the M or MM district would have a material adverse effect on the proposed residential use.~~

~~(c) As a condition of approval for a Use Permit required by Paragraph (a) above, the residential property owner shall record an acknowledgement that existing or reasonably foreseeable adjacent land uses in the M or MM district may create noise, dust, odors, light/glare, and other impacts that will not be considered a nuisance if they are developed and conducted pursuant to the standards of the district.~~

9. 7. Residential Mixed-Use Residential. To approve an AUP or Use Permit to establish or expand of a ~~residential~~ mixed-use ~~residential~~ building in the MU-R district, the review authority must find that the specific combination of proposed residential and non-residential uses will not be hazardous or detrimental to persons living and/or working on the site or within the project vicinity.

8. Noticing for New Dwelling Units. This section applies to proposed new dwelling units that are eligible for approval with a Zoning Certificate, as indicated in Table 23.206-1 Allowed Land Uses in Manufacturing Districts.

Commented [HJ49]: Noticing requirement.

- ~~(a) Scope and Timing of Notice. The City shall mail a courtesy notice to tenants of the subject property, and owners and tenants of the adjacent, confronting, and abutting properties, within ten working days of submission of the application to the City.~~
- ~~(b) Content of Notice. Notice shall provide the address of the project, allowable hours of construction and information for tenants of the subject property on how to contact a Rent Board Housing Counselor by e-mail or phone and any other resource information deemed relevant.~~
- ~~(c) Mailing Fees. The applicant shall be responsible for the cost of materials, postage, and staff time necessary to process and mail notices.~~

Section 38. That Table 23.206-14- MU-R Development Standards within Section 23.206.090 is amended to read as follows:

Commented [HJ50]: Revised development standards

TABLE 23.206-14: MU-R DEVELOPMENT STANDARDS

BASIC STANDARDS	SUPPLEMENTAL STANDARDS
Lot Area, Minimum	23.304.020 – Lot

New Lot	No minimum	Requirements
Per ~~Dwelling Unit or~~ Live/Work Unit	1,250 sq. ft. [4]	
Lot Width, Minimum	40 ft.	
Usable Open Space, Minimum		23.304.090 – Usable Open Space
Per ~~Dwelling Unit~~ 1,000 sq. ft. of gross residential floor area	150 sq. ft.	
Per Live/Work Unit	40 sq. ft.	
Floor Area Ratio, Maximum, ~~Non-Residential~~	1.50 [12]	23.106.050 - Floor Area Ratio
<u>Residential Density (DU/acre)</u>		23.106.100 – Residential Density
<u>Minimum</u>	<u>20</u>	
<u>Maximum</u>	<u>60</u>	
Main Building Height, Maximum		23.304.050 - Building Height
Live/work	28 ft. and 3 stories [23]	
Residential or mixed-use [34]	35 ft. ~~or~~ and 3 stories	
<u>Within 15 ft. of rear property line</u>	<u>22 ft.</u>	
All other uses	35 ft. and 2 stories [45]	
Lot Line Setbacks, Minimum		23.304.030 – Setbacks
Front	5 ft.	
Rear	No minimum [56]	
Interior Side	No minimum	
Street Side	5 ft.	
Building Separation, Minimum	~~No minimum~~ <u>5 ft.</u>	
Lot Coverage, Maximum	~~100%~~ <u>No maximum</u>	

Commented [HJ51]: FAR would not apply to residential projects.

Notes:

[1] ~~One additional dwelling unit allowed for remaining lot area between 750 and 1,250 square feet.~~

[12] Maximum 1.5 for buildings with 50 percent or more ~~residential or~~ live/work floor area

[23] Maximum 35 ft. with a Use Permit.

[34] Mixed use is defined here as a building with 50 percent or more of gross floor area used for residential (including live/work) purposes.

[45] Maximum 3 stories for arts/craft studios and light manufacturing (with no other non-residential uses) on a block without dwelling units.

[56] Minimum 5 ft. if rear of lot abuts a street.

[7] ~~Setbacks required when abutting or confronting a Residential District. See 23.304.030.C.2.~~

Section 39. That Table 23.210-1: H Overlay Zone Maximum Allowed Height within Section 23.210.020 is amended to read as follows:

Commented [HJ52]: Conforming edit: removing R-1A

TABLE 23.210-1: H OVERLAY ZONE MAXIMUM ALLOWED HEIGHT

UNDERLYING BASE DISTRICT	ALLOWED HEIGHT		MAXIMUM STORIES
	AVERAGE	MAXIMUM	
New Buildings			
R-1, ~~R-1A~~ , R-2, R-2A	28 ft.	35 ft.	3 stories
R-3, R-4, R-5, R-S, C-N, C-NS	35 ft.	35 ft.	3 stories
Residential Additions	As required by the base district or the highest existing portion of the roof, whichever is lower	20 ft.	N/A

Section 40. That BMC Section 23.304.030(B)(1) is amended to read as follows:

Commented [HJ53]: Conforming edit: Removing R-1A

- Corner Lots with a Rear Lot Line Abutting a Key Lot.** For corner lots in the R-1, ~~R-1A~~, R-2 and R-2A districts with a rear lot line abutting a key lot, the minimum street side setback is either:

- (a) One-half the front setback required or existing on the key lot, whichever is less; or
- (b) Four feet if the corner lot maintains 50 feet or more rear setback.

Section 41: That Table 23.304-1 Allowed Setback Reductions in Residential District within BMC Section 23.304.030 is amended to read:

Commented [HJ54]: Removing R-1A; new provisions to reflect 20 ft combined front and rear setback requirement

TABLE 23.304-1: ALLOWED SETBACK REDUCTIONS IN RESIDENTIAL DISTRICTS

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
Front Setback Reductions				
ES-R	On any lot	No minimum.	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
Rear Setback Reductions				
ES-R [3]	On any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, ~~R-1A~~	On a lot less than 100 ft. deep	20% of lot depth [4]	ZC	None
~~R-1A~~	~~To construct a dwelling unit~~	~~12-ft.~~	~~AUP~~	~~The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.~~

DISTRICT WHERE ALLOWED	WHEN ALLOWED	MINIMUM SETBACK WITH REDUCTION	REQUIRED PERMIT	REQUIRED ADDITIONAL FINDINGS [1]
R-2, R-2A, R-3, R-4, R-5 [45]	On a lot with two or more main buildings with dwelling units	No minimum	AUP	No additional findings
Side Setback Reductions				
ES-R [3]	Any lot	No minimum	UP(PH) [2]	The reduced setback is: 1) necessary to allow economic use of property due to the size, shape of the lot or the topography of the site; and 2) consistent with the ES-R district purpose.
R-1, ~~R-2, R-2A-R-4A~~	Lot width less than 40 ft. [5]	10% of lot width or 3 ft., whichever is greater	ZC	None
R-2 ~~H~~ , R-2A ~~H~~	Lot width less than 40 ft.	First and second stories: 10% of lot width or 3 ft., whichever is greater; Third story: ~~5~~ 4 ft.	ZC	None
Notes: [1] Findings are in addition to any AUP or Use Permit findings required in 23.406-Specific Permit Requirements. [2] Fire Department must review and approve reduced setbacks in respect to fire safety. [3] For lots less than 5,000 square feet, reductions are not allowed for property lines abutting a property under different ownership. <u>[4] The resulting rear setback becomes the total setback required for the front and rear to add up to. Front and rear setbacks may not be less than 5 ft.</u> [45] Parcels located within the R-3 district within the Southside Plan boundaries are exempt from this section. ~~[5] Not permitted for rear main buildings in the R-1A district.~~				

Section 42. That the line "R-1A" in Table 23.304-4: Permits Required for Building Separation in Residential Districts within BMC Section 23.304.040 is amended to read as follows

Commented [HJ55]: Conforming edit: removing R-1A

DISTRICT WHERE ALLOWED	WHEN ALLOWED	PERMIT REQUIRED	FINDINGS [1]
R-1A	On a lot with two or more main buildings with a dwelling unit	AUP	The unit would not cause a detrimental impact on emergency access; or on light, air or privacy for neighboring properties.

Section 43. That BMC Section 23.322.100(C)(1) is amended to read as follows:

Commented [HJ56]: Conforming edit: removing R-1A

1. General. The following requirements apply to required on-site loading spaces in all districts except for the R-1, ~~R-1A~~, R-2, R-2A districts.

- (a) *Dimensions.* A required loading space must be at least 12 feet wide and 25 feet long with a minimum vertical clearance of 14 feet.
- (b) *Location.* A required loading spaces must be located on the same lot as the structure or use the space is designed to serve.
- (c) *Parking Spaces.* A required parking space may not be used to satisfy the requirements for an off-street loading space.
- (d) *Access and Paving.* A required loading space must have adequate means of access from a street or alley. Both the space and access driveway must be paved with a durable, dustless material that is usable under all weather conditions.

Section 44. That BMC Section 23.324.050(D)(3)(a) is amended to read as follows:

Commented [HJ57]: Technical conforming edit to allow an addition to a single family dwelling in the R-2A, without triggering minimum density requirement of 2 units.

(a) A Use Permit is required for an addition to and/or enlargement of a structure or building that exceeds the maximum allowed lot coverage, or maximum floor area ratio, or is nonconforming to minimum or maximum residential density.

Section 45. That BMC Section 23.326.030(B)(1)(c) is amended to read as follows:

Commented [HJ58]: Technical edit to demo ordinance.

(c) The demolition is necessary to permit construction approved pursuant to this Chapter of at least the same number of Residential Dwelling Units.

Section 46. That BMC Section 23.326.030(B)(2) is amended to read as follows:

Commented [HJ59]: Demo ordinance provision

2. A Single-Family Dwelling may be demolished with ~~an AUP~~ a Zoning Certificate, if the demolition is part of a development project that would result in a net increase in residential density.

Section 47. That BMC Section 23.406.020(E) is amended to read as follows:

Commented [HJ60]: Standard Conditions of Approval language recommended by Planning Commission on 3/5

E. Review and Action

1. The Zoning Officer shall review a Zoning Certificate application to verify compliance with the Zoning Ordinance. If the project complies with all applicable requirements, the Zoning Officer shall approve the application.

2. The Zoning Officer may attach to the Zoning Certificate project plans and other information as needed to document project compliance with the Zoning Ordinance.

3. The Zoning Officer may attach to the Zoning Certificate any applicable uniformly applied Standard Conditions of Approval.

Section 48. That BMC Section 23.502.020(M)(17) and (18) are amended to read as follows:

Commented [HJ61]: New language clarifying that this definition does not include J/ADUs.

17. **Multi-Family Dwelling.** A building, group of buildings, or portion of a building used or designed as ~~three~~ two or more dwelling units.

18. **Multi-Family Residential.** A residential use that includes two or more units, excluding ADUs and Junior ADUs, on a single lot.

~~18. 19~~ **Municipal Animal Shelter.** A City-owned facility providing services for humane animal care with programs and services focused on maximizing opportunities for animal adoption. Supporting facilities may include medical care (including spay/neuter), kennels, exercise areas and adoption centers.

Section 49. That BMC Section 23.502.020(R) is amended to read as follows:

Commented [HJ62]: Conforming edit: Removing R-1A; renumbering

R. "R" Terms.

~~1. **Rear Main Building.** A main building situated behind another main building existing or proposed on a parcel located in the R-1A district.~~

21. **Receiving Lot.** See Lot, Receiving.

32. **Recycled Materials Processing.** A facility that receives and processes recyclable materials. Processing means preparation of material for efficient

shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

43. *Recycling Redemption Center.* A facility, use, or structure for the collection of recyclable goods, including beverage containers and newspapers.

54. *Related Equipment.* All equipment necessary for or related to the provision of personal wireless services. Such equipment may include, but is not limited to, cable, conduit and connectors, equipment pads, equipment shelters, cabinets, buildings and access ladders.

65. *Religious Assembly.* A building or space primarily used for an assembly of persons to conduct worship or other religious ceremonies, including, but not limited to, churches, synagogues, temples, mosques or shrines.

76. *Repair Service, Non-Vehicle.* An establishment that provides repair and maintenance services for household appliance, home electronics, office equipment, furniture and other similar items. Excludes vehicle repair.

87. *Research and Development.* An establishment engaged in the following activities: 1) industrial, biological or scientific research; and/or 2) product or process design, development, prototyping, or testing. This may include labs, offices, warehousing, and light manufacturing functions as part of the overall Research and Development use.

98. *Resident.* A person whose primary residence is in Berkeley.

109. *Residential Care Facility.* See Community Care Facility.

110. *Residential Hotel.* See Hotel, Residential.

121. *Residential Addition.* See Addition, Residential.

1312. *Residential Districts.* The districts listed under the Residential Districts heading in Table 23.108-1: Zoning Districts.

1413. *Residential Hotel Room.* A room which is:

- (a) Used, designed, or intended to be used for sleeping for a period of 14 consecutive days or more;
- (b) Not a complete dwelling unit, as defined in this chapter; and
- (c) Not a Tourist Hotel Room, as defined in this chapter.

4514. Residential Use. Any legal use of a property as a place of residence, including but not limited to dwelling units, group living accommodations, and residential hotels.

4615. Retail, General. A retail establishment engaged in the sales of personal, consumer, or household items to the customers who will use such items. This use includes antique stores, art galleries, arts and crafts supply stores, bicycle shops, building materials and garden supplies stores, clothing stores, computer stores, cosmetic/personal care items, department stores, drug paraphernalia stores, drug stores, fabric, textile and sewing supply shops, flower and plant stores, food product stores, furniture stores, garden supply stores, nurseries, gift/novelty shops, household hardware and housewares stores, household electronics/electrical stores, jewelry/watch shops, linen shops includes bedding, musical instruments and materials stores, office supply stores, paint stores, photography equipment supply stores, secondhand stores, sporting goods stores, stationery, cards and paper goods stores toy stores and variety stores. This use excludes video rental stores, service of vehicle parts, and firearm/munition sales.

4716. Retaining Wall. A wall designed to contain and resist the lateral displacement of soil and of which such soil is at a higher elevation on one side of the wall.

4817. Review Authority. The City official or body responsible for approving or denying a permit application or other form of requested approval under the Zoning Ordinance.

4918. Rooming House. A building used for residential purposes, other than a hotel, where lodging for 5 or more persons, who are not living as a single household, is provided for compensation, whether direct or indirect. In determining the number of persons lodging in a rooming house, all residents shall be counted, including those acting as manager, landlord, landlady or building superintendent. See also Boarding House.

Section 50. That BMC Section 23.502.020(S)(21) through 23.502.020(S)(36) is amended to read as follows:

Commented [HJ63]: New definition and renumbering. Clarifying that the definition does not include J/ADUs

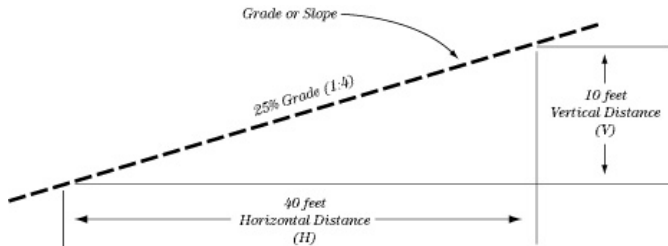
21. Single-Family Residential. A residential use that includes only one single-family dwelling, excluding ADUs and Junior ADUs, on a single lot.

22.24. Single Residential Occupancy (SRO) Room. A room for residential or sleeping purposes in a residential hotel which is designed for occupancy of one person only.

23. 22. Skateboard Ramp. A ramp, platform, course or facility used for skateboard riding and made of wood or other solid material.

24. 23. Slope. The steepness of a site, measured as the ratio of the vertical distance to the horizontal distance between the highest and lowest points of the site. See Figure 23.502-5: Grade or Slope.

FIGURE 23.502-5: GRADE OR SLOPE



25. 4. Small Vehicle Sales and Service. An establishment which sells or leases long-term new, used, or pre-owned motorized vehicles other than passenger automobiles and trucks which are characterized by fewer than four wheels or a minimal frame. Types of vehicles sold or leased by this use include motorcycles, scooters, three-wheel motorcycles, electric carts, electric scooters, and such vehicles designed or refurbished for alternative fuels/power sources (alternative to conventional gasoline).

26. 5. Smoke Shop. An establishment engaged primarily in the sale of tobacco and/or tobacco-related products.

27. 6. Solar Energy Device/Equipment. Any solar collector or other solar energy device or any structural design feature of a building of which the primary purpose is to provide for the collection, storage or distribution of solar energy for space heating or cooling, water heating or the generation of electricity.

28. 7. Sorority House. A building used for group living accommodations by an organization recognized by the UC Berkeley, or other institution of higher learning.

29. 8. Source Lot. See Lot, Source.

30. 29. Story. See Section 23.106.060 (Story)

31. 30. Street. A public or private thoroughfare which provides principal means of access to abutting lots, including but not limited to, avenue, place, way, manor, drive, circle, lane, court, boulevard, highway, road and any other thoroughfare except an alley or a path as defined in this chapter.

32. 31. Street Line. The boundary between a lot and an adjacent street.

33. 32. Structural Alteration. Any physical change to or removal of the supporting members of a building, foundation or bearing walls, columns, beams or girders or creation or enlargement of a window or door, change of a roofline or roof shape, including creating, enlarging or extending a dormer.

~~34. 33.~~ **Structural Alteration, Public Safety.** Any structural alteration or physical change to a building that provides greater safety to the public or occupants by strengthening the building against seismic activity, which does not result in new floor area except that created by necessary structural improvements or physical changes as required under Municipal Code Chapter 19.38 and 19.39.

~~35. 34.~~ **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. A building is a structure for the purposes of this chapter.

- (a) **Accessory Structure.** A detached structure, other than an accessory building, in which non-habitable uses or activities other than the principal use of the property are conducted. Residential accessory structures include, but are not limited to, enclosed structures such as garages, carports, garden or tool sheds, and non-enclosed structures such as, but not limited to, fences, gazebos, ground-mounted satellite dishes, skateboard ramps and wheelchair ramps. Non-residential accessory structures include, but are not limited to, storage buildings, garages, sheds and other outbuildings.
- (b) **Subterranean Structure.** A roofed structure constructed underground, with no building stories aboveground, of which the roof does not exceed 3 feet above the pre-existing grade. Such structures are either separated from a building or connected to a building only by a passageway or hallway with no openings to finished grade except for a doorway.
- (c) **Temporary Structure.** A tent, tent-house, trailer, mobile office, mobile home or other movable structure or other temporary structure whose construction does not require a building permit.

~~36. 35.~~ **Studio.** See Art/Craft Studio.

~~37. 36.~~ **Supportive Housing.** As defined in Health and Safety Code 50675.14(b)(2), housing with no limit on length of stay that is occupied by the target population as defined in Health and Safety Code 50675.14(b)(3) and is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.

Section 51. That BMC Section 23.502.020(T)(14) is removed as follows:

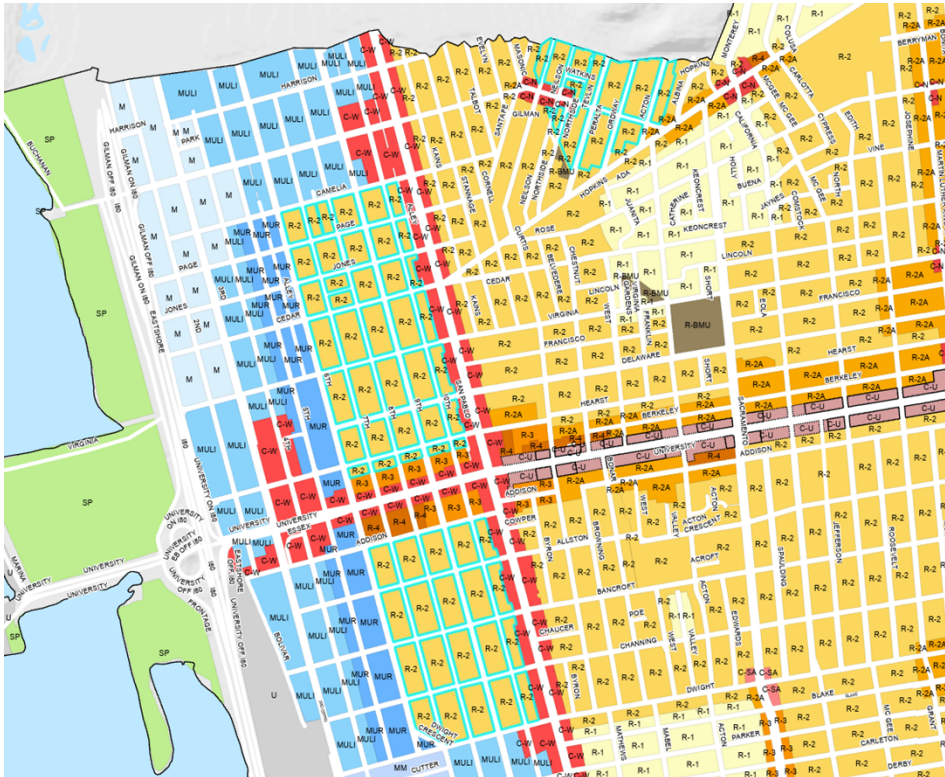
~~14. **Two-Family Dwelling.** A building or use of a lot designed for, or occupied exclusively by, two households.~~

Commented [HJ64]: Removing obsolete definition.

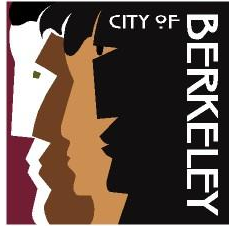
Section 52. The effective date of this Ordinance shall be September 1, 2025.

Section 53: Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

The zoning map below reflects the elimination of the R-1A zoning district and the redesignation of R-1A parcels as R-2 parcels. All affected parcels are outlined in light blue.



1831812.1



Office of the City Manager

REVISED AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: July 23, 2024

Item Number: 1

Item Description: Zoning Ordinance and General Plan Amendments Related to Middle Housing

Submitted by: Jordan Klein, Director, Planning and Development

Staff recommend delaying action to adopt the Middle Housing Zoning Ordinance Amendments in order to provide time to conduct Tribal Consultation on the proposed General Plan amendments, pursuant to SB-18. The revised agenda materials update staff's recommendation to request direction from the City Council on proposed zoning ordinance amendments.



Office of the City Manager

PUBLIC HEARING

July 23, 2024

To: Honorable Mayor and Members of the City Council

From: LaTanya Bellow, Interim City Manager

Submitted by: Jordan Klein, Director, Planning and Development

Subject: Zoning Ordinance ~~and General Plan~~ Amendments Relating to Middle Housing

RECOMMENDATION

Conduct a public hearing, and upon ~~conclusion~~ of conclusion, provide direction to staff on an ~~Ordinance~~ ordinance amending Berkeley Municipal Code Title 23 (Zoning Ordinance) and the Zoning Map, for the purposes of encouraging development of “middle housing” in areas currently zoned R-1, R-1A, R-2, R-2A and MU-R (“low-density residential districts”); ~~and~~.

~~1. Adopt a Resolution amending the General Plan Designations and Land Use diagram for the same purpose.~~

SUMMARY

The proposed ordinance includes zoning changes to encourage the development of Multi-Family Residential Uses in the R-1, R-1A, R-2, R-2A and MU-R zoning districts. The proposed changes include:

- Permit Single-Family Residential and Multi-Family Residential uses with a Zoning Certificate (ZC).
- Consolidate the R-1A and R-2 zoning districts.
- Revise development standards related to building height, lot coverage and setbacks, to permit larger residential buildings.
- Establish a new minimum density standard.
- Revise requirements related to Residential Additions and additional bedrooms.
- Permit demolition of single-family homes with a ZC if they are part of a project that includes a net increase in units.

The report also includes discussion of Alternative Actions Considered.

FISCAL IMPACTS OF RECOMMENDATION

The proposed zoning changes are intended to increase the development potential of properties in low-density residential districts. This could result in higher property tax revenues. These changes also allow for larger development projects compared to the current zoning regulations, so on average, the City can expect to collect more development fees on a per-project basis. These fees may include those for affordable housing (BMC 23.328), childcare if the projects involve non-residential uses (BMC 22.20), and public art (BMC 6.13). Additionally, the Berkeley Unified School District Facilities Fee could be expected to generate increased revenues.¹ However, the proposed zoning changes also include revisions that would streamline project approvals, which could reduce staff review times and accompanying fees.

CURRENT SITUATION AND ITS EFFECTS

In January 2023, the City Council adopted the 2023-2031 Housing Element Update. The Housing Element Update includes Program 29—Middle Housing, in which the City Council committed to amend the zoning code to allow multi-unit development on single lots in lower density districts.

Planning Commission Recommendation

At its meeting on February 7, 2024, the Planning Commission recommended that the City Council adopt an Ordinance amending Title 23 to facilitate the production of middle housing in low-density residential districts. ~~The proposed ordinance includes changes that require conforming General Plan Amendments, which require adoption via resolution.~~ The staff report for the February 7, 2024 meeting (**Attachment 5**) included staff recommendations that differed from the Planning Commission's ultimate recommendation; see the Alternative Actions Considered section for further detail.

The proposed zoning changes recommended by the Planning Commission are summarized in Table 1, along with the rationale and a summary of any notable Alternative Actions Considered by the Planning Commission. An annotated version of the proposed ordinance, which indicates the rationale for each change in the ordinance itself, is included as **Attachment 2**. The following is a detailed description of the proposed changes:

TABLE 1 SUMMARY OF PROPOSED MIDDLE HOUSING ZONING AMENDMENTS

Ord. Sect.	BMC Section & Title	Description of Changes	Rationale	Alternative Action Considered
Title 23, Division 1 – General Provisions				

¹ April 2023. Berkeley Unified School District (BUSD) School Facility Fees.
<https://www.berkeleyschools.net/wp-content/uploads/2023/04/BUSD-School-Facility-Fee-Notice-7.28.22-002.pdf>

1	23.108.020 Zoning Districts	- R-1A district removed. - R-1, R-2, and R-2A renamed.	Conforming edits.	
Title 23, Division 2 – Zoning Districts				
2	23.202.020 Allowed Land Uses Table	- R-1A district removed; - Two-Family land use type removed. - Multi-Family Residential land use type revised. - Single Family and Multi Family Residential permitted with a ZC in the R-1, R-2, and R-2A zoning district. - Supportive housing and low barrier navigation centers permitted with a ZC in the R-1 zoning district.	Permitting middle housing by-right. Compliance with State law (Gov. Code § 65651)	Permit Multi-Family Residential with a ZC, while Single-family homes would still require a UP(PH).
3	23.202.030 Additional Permit Requirements	All Residential Additions permitted with a ZC in R-1, R-2 and R-2A zoning districts.	Promoting middle housing.	Only allow Residential Additions with a ZC if they include new units.
4	23.202.030 Additional Permit Requirements	- R-1A district removed. - All requirements for additional bedrooms removed.	Conforming edit. Promoting middle housing.	Only allow additional bedrooms with a ZC if they are part of new units.
5, 6	23.202.050 R-1 Title and District Purpose	- R-1 renamed. - District purpose revised.	Clarifying that R-1 is not a single-family only district.	
7	23.202.050 R-1 Development Standards	- Development standards revised: - Height. - Setbacks. - Lot Coverage. - Minimum density. - Open space.	Promoting middle housing.	Include Maximum FAR, Maximum Density, and Lot Coverage that vary by number of units.
8	23.202.060 R-1A District	R-1A district removed.	Merging of R-1A and R-2 zoning districts.	
9, 10	23.202.070	Renumbering.	Renumbering.	

	ES-R District			
11, 12	23.202.080 R-2 Title and District Purpose	• R-2 district renamed. • District purpose revised.	Conforming edit.	
13	23.202.080 R-2 Development Standards	• Development standards revised. ○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum density. ○ Open space.	Promoting middle housing.	Include Maximum FAR, Maximum Density, and Lot Coverage that vary by number of units.
14, 15	23.202.090 R-2A Title and District Purpose	• R-2A district renamed. • District purpose revised.	Conforming edit.	
16	23.202.090 R-2A Development Standards	• Development standards revised. ○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum density. ○ Open space.	Promoting middle housing.	Include Maximum FAR, Maximum Density, and Lot Coverage that vary by number of units.
17-34	Various	• Renumbering.	Renumbering.	
35	23.204.020 Allowed Land Uses in the Commercial Districts	• Revising residential use type titles.	Conforming edits.	
36	23.206.020 Allowed Land Use in Manufacturing Districts	• Two-Family land use type removed. • Multi-Family Residential land use type revised. • 100% residential projects permitted with a ZC in the MU-R district.	Permitting middle housing by-right in the MU-R.	Permit Multi-Family Residential with a ZC, while Single-family homes would still require an AUP.
37, 38, 39	23.206.030 MU-R Additional Permit Requirements	• Allow Major Additions with a ZC. • Provisions conditioning residential uses in the MU-R district removed.	Permitting middle housing by-right in the MU-R.	
40	23.206.090	• Development standards revised.	Promoting middle housing.	Include Maximum FAR

	MU-R Development Standards	○ Height. ○ Setbacks. ○ Lot Coverage. ○ Minimum density. ○ Open space.		and Maximum Density.
41	23.210.020 Hillside Overlay Zone	• Prohibition of multiple dwellings on a parcel in the R-2H removed.	Promoting middle housing.	
42	23.210.020 Hillside Overlay Zone Development Standards	• R-1A district removed; • 3 stories maximum removed (maximum height unchanged). • Maximum height for Additions same as for New Buildings.	Conforming edit. Promoting middle housing.	Take no action on Middle Housing provisions for the Hillside Overlay. Establish Lower Maximum Density controls in the Hillside Overlay. Establish Maximum height of 28 feet in the Hillside Overlay.
Title 23, Division 3 – Citywide Provisions				
43	23.304.030 Setbacks	• R-1A district removed.	Conforming edit.	
44	23.304.030 Allowed Setback Reductions	• R-1A district removed. • Revised minimum setback with reduction to 4 feet in the R-2 and R-2A zoning districts.	Conforming edits.	
45	23.304.040 Permits Required for Building Separation	• R-1A district removed.	Conforming edit.	
46-47	23.322.100 On-site Loading Spaces	• R-1A district removed.	Conforming edit	
48	23.326.030	• Demolition of single-family dwellings	Promoting middle housing.	Demolition permitted with

	Eliminating Dwelling Units through Demolition	permitted with a ZC, if project results in increased density.		an AUP, if part of middle housing project and not tenant-occupied.
Title 23, Division 5 – Glossary				
49	23.502.020 Defined Terms	- Revised definition of Multi-family Dwelling from three or more units to two or more units. - Define Multi-Family Residential land use type.	Promote middle housing. Conforming edit.	
50		Remove definition of rear main building.	Conforming edit.	
51		Add Single-Family Residential land use type.	Conforming edit.	
52		Remove definition of Two-Family Dwelling.	Conforming edit.	
Zoning Map				
Att. A	Zoning Map	Replace all R-1A zone labels with R-2.	Conforming edit.	

Consolidation of R-1A and R-2 and Renaming of R-1, R-2, and R-2A Zoning Districts

Planning Commission and City Council each noted to staff that there are negligible regulatory differences between the R-1A and R-2 zoning districts, and questioned whether a continued distinction is warranted. Consistent with this feedback, the proposed ordinance would merge the R-1A and R-2 zoning districts. Parcels that are currently zoned R-1A would be zoned R-2 (**Attachment 1, Exhibit A**). Within the proposed ordinance itself, this change would require the removal of the R-1A section of the zoning ordinance, as well as the deletion of occasional references to the R-1A zoning district throughout the code.

The proposed ordinance includes a revised naming scheme of the R-1, R-2 and R-2A zoning districts. As the R-1 zoning district is no longer a single-family residential district, and as all three districts would permit Multi-Family Residential uses with a Zoning Certificate, the three zoning districts are proposed to be renamed as follows:

- R-1 ~~Single-Family~~ Residential Multi-Unit 1
- R-2 ~~Restricted Two-family~~ Residential Multi-Unit 2

- R-2A ~~Restricted Multiple-Family~~ Residential Multi-Unit 2A

Planning Commission also considered further consolidation of zoning districts, as detailed in the Alternative Actions Considered section.

Permits and Levels of Discretion

Current Policy: Table 2 includes the current permit requirements in low-density residential districts for residential projects that include dwelling units.

TABLE 2 CURRENT PERMIT REQUIREMENTS

	R-1/R-1H	R-1A	R-2	R-2H	R-2A/ R-2AH	MU-R
Single-Family	UP(PH)	UP(PH)	UP(PH)	UP(PH)	UP(PH)	AUP
Two-family	NP	UP(PH)	UP(PH)	NP	UP(PH)	AUP
Multi-Family	NP	NP	UP(PH)	NP	UP(PH)	AUP or UP(PH)
AUP: Administrative Use Permit UP(PH): Use Permit with a Public Hearing NP: Not Permitted						

Proposed Standard: The proposed standards would combine Two-Family and Multi-Family Residential uses into a single Multi-Family Residential use type, which would apply to all projects with two or more units. Single-Family or Multi-Family Residential projects that comply with all objective standards would be permitted with a ZC; no discretionary permit or public hearing would be required. The proposed standards would not change any permit requirements for Group Living Accommodation or Mixed-Use Residential uses in these zones. Table 3 summarizes the recommendation:

TABLE 3 PROPOSED PERMIT REQUIREMENTS

	R-1(H)	R-2(H)	R-2A(H)	MU-R
Single-Family	ZC	ZC	ZC	ZC

Multi-Family Residential	ZC	ZC	ZC	ZC
---------------------------------	----	----	----	----

Planning Commission also considered preserving the UP(PH) requirement for Single-Family Dwellings, as detailed in the Alternative Actions Considered section.

Residential Additions and Additional Bedrooms

The proposed ordinance includes changes to the regulation of Residential Additions in the R-1, R-2, and R-2A zoning districts. Currently, BMC Section 23.202.030 requires an AUP for a Residential Addition that exceeds a certain size, and the Residential Addition is subject to height limits that are more restrictive than those for new Main Buildings. The proposed ordinance would permit Residential Additions that comply with the development standards for Main Buildings with a Zoning Certificate. The proposed ordinance would also revise the maximum height for Residential Additions. Currently, the maximum height for Residential Additions in the R-1, R-2 and R-2A zoning districts is 14 feet. The proposed ordinance would include the same height limits for Residential Additions as exist for Main Buildings (28-foot average height and 35-foot maximum height. See Maximum Building Height, below).

Planning Commission also considered applying these revised standards only to Residential Additions that include new units, as detailed in the Alternative Actions Considered section.

The proposed ordinance would also remove additional requirements for bedrooms that are added to existing dwellings or lots developed with existing residential uses. Currently, BMC Section 23.202.030 requires an Administrative Use Permit (AUP) when adding a fifth bedroom to a lot, and a UP(PH) for adding any bedroom beyond the fifth to a lot. As the proposed ordinance would permit altogether new Multi-Family Residential buildings ministerially, requiring a discretionary review process for an additional bedroom would discourage the conversion or adaptive reuse of existing buildings.

Planning Commission also considered applying these new provisions for added bedrooms only when they are part of a project that includes new units, as detailed in the Alternative Actions Considered section.

Development Standard Revisions

The following sections summarize changes to the development standards in the proposed R-1, R-2, R-2A and MU-R zoning districts. The proposed development standards reflect the overall goals of City Council's referrals and Program 29-Middle Housing of the Housing Element to a) permit more development on a lot; and b) be based on objective standards that cannot be modified with additional permits or

discretionary processes. Existing and proposed development standards are summarized in tables in **Attachment 4**.

Density Standard

Current Policy: The Berkeley Municipal Code does not include any minimum 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 4 summarizes the proposed density standards expressed in units per acre, and includes the number of units that may result from that standard on a typical 5,000 square foot lot in each zone. There is no minimum density requirement for lots in the Hillside (H) Overlay district. Minimum densities would apply for new development on a vacant lot or redevelopment and infill of existing nonvacant lots.

TABLE 4 PROPOSED DENSITY STANDARDS

	R-1	R-2	R-2A	MU-R
Minimum Density (DU/acre)	10	10	20	20
Resulting units on a 5,000 sf lot				
Minimum Units	1	1	2	2

The proposed density standards do not include any eligible Accessory Dwelling Units (ADUs).

Planning Commission also considered establishing Maximum Density Standards, as detailed in the Alternative Actions Considered section.

Building Height

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 Hillside Overlay, the Zoning Officer may approve an AUP to increase the allowed average height (28 feet) and allowed maximum height (35 feet). In the MU-R, the maximum height is 35 feet and 3 stories without the need for an additional AUP. Current policy also limits the height of Residential Additions to 14 feet, with a possible increase to 35 feet with an AUP.

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

- The maximum *average* building height in low-density residential districts would be 28 feet.
- The maximum height in low-density residential districts would be 35 feet, but would be reduced to 22 feet within 15 feet of a rear property line.
- The limit on the maximum number of stories would be removed; maximum height would only be measured in feet.
- Height standards for Main Buildings and Residential Additions would be the same.

The proposed development standards largely preserve existing height limits, while providing pathways for slightly taller projects (and more dwelling units) through a nondiscretionary process based on objective standards. The proposed standards also include lower maximum heights near the rear property line, in consideration of potential impacts on neighboring properties and solar access.²

Planning Commission also considered establishing a lower maximum height standard within the Hillside Overlay, as detailed in the Alternative Actions Considered section.

Minimum Required Open Space

Current Policy: Table 5 summarizes current minimum open space requirements in low-density residential zones, on a per unit basis, as well as the proposed standard.

TABLE 5 MINIMUM REQUIRED OPEN SPACE STANDARDS

CURRENT	R-1(H)	R-1A	R-2(H)	R-2A(H)	MU-R
Per dwelling unit (sf)	400			300	150
PROPOSED	R-1(H)	R-2(H)	R-2A	R-2AH	MU-R
Per 1,000 sf of floor area (sf)	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. Required open space would no longer be based on the number of units, but on a project's total floor area. The proposed open space standard is designed to permit a larger percentage of

² Details of the solar access study conducted by staff in the preparation of these zoning changes can be found in the staff report for the September 20, 2022 City Council Worksession (pg. 13-14).

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

total lot area to be dedicated to residential development while also preserving the requirement to provide residents with usable open space.

Maximum Lot Coverage

Current Policy: Table 6 summarizes existing maximum lot coverage requirements. Current requirements distinguish between interior and corner lots, and reduce maximum lot coverage for taller projects.

TABLE 6 CURRENT MAXIMUM LOT COVERAGE STANDARDS

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Interior & Through-Lots								
1 story	40%		40%	45%			100%	
2 stories				40%				
3 stories				35%				
Corner Lots								
1 story	40%		50%	50%			100%	
2 stories			45%	45%				
3 stories				40%				

Proposed Policy: The proposed development standard would be 60% maximum lot coverage on all parcels in the R-1, R-1H, R-2, R-2H, R-2A and R-2AH zoning districts. Distinctions in lot coverage between interior/through lots and corner lots would be eliminated, as well as distinctions in lot coverage based on the number of stories. The Planning Commission recommended this lot coverage standard to increase developable area to facilitate the development of more units, and applied the standard across all zoning districts to eliminate any disparities in development intensity across zoning districts.

Planning Commission also considered establishing maximum lot coverage controls that vary based on the number of units included in a proposed project, as detailed in the Alternative Actions Considered section.

Minimum Setbacks

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% of the lot's 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.

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

The 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), but would remain the same in the R-1H, R-2H, R-2A, R-2AH and MU-R zoning districts. Also, a project 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 rear setbacks would remain 20 feet in the R-1H and R-2H zoning districts, and 15 feet in the R-2AH zoning district. The MU-R would maintain its existing regulations. The 4-foot rear setback is consistent with the setbacks required for ADUs. As noted above, a building's maximum height would be limited to 22 feet within 15 feet of the rear property line under the proposed ordinance.
- Interior Side Setbacks: The interior side setback in the R-1, R-2 and R-2A zoning districts would be 4 feet, but would be 5 feet in the R-1H, R-2H and R-2AH zoning districts. The MU-R would maintain its existing regulations. This increase reflects State Board of Forestry Zone Zero requirements, which call for an

ember-resistant zone within five feet of a structure in a Very High Fire Hazard Severity Zone. The proposed standards would also remove existing interior setbacks that increase at upper stories. These existing standards not only reduce available square footage for residential uses, but also result in buildings that are designed with a layered “wedding cake” appearance.

- **Street Side Setbacks:** Street side setbacks would be 4 feet in all low-density residential districts. There would be no changes to street side setbacks in the MU-R.

Building Separation**Error! Reference source not found.**

Current Policy: Current building separation requirements (that is, the required separation between each building on a single lot) are summarized in Table 7

TABLE 7 CURRENT BUILDING SEPARATION STANDARDS

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

Proposed Policy: The proposed development standards would create a 5-foot building separation requirement, regardless of the height of the proposed project, and an 8-foot building separation requirement for parcels in the H overlay. This requirement would be consistent with the separation requirements for ADUs, and would also remove a development standard that has resulted in buildings designed with a layered “wedding cake” appearance.

Demolition of Single-Family Structures

Current Policy: Recent updates to BMC Chapter 23.326 *Demolition and Dwelling Unit Control*, the second reading of which was adopted on July 9, provide for the demolition of single-family structures without sitting tenants via an AUP as long as the proposed project would result in a net increase in the number of dwelling units.

Proposed Policy: Pursuant to the adopted Housing Element, which 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, the proposed ordinance includes this provision.

Planning Commission also considered permitting demolition with an AUP, as detailed in the Alternative Actions Considered section.

City Council Referrals

The proposed zoning amendments are prepared in response to several City Council referrals to create objective development standards and promote denser development in low-density residential zones, as shown in Table 8:

TABLE 8 CITY COUNCIL REFERRALS

Housing Accountability Act (7/11/2017)	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 • Views, shadows, and other impacts that underlie detriment findings
Missing Middle Housing (4/23/2019)	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.
Eliminating Exclusionary Zoning (2/23/2021)	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 • Carry out a robust community process when developing zoning changes.
Objective Standards for Density, Design, and Shadows (11/9/2021)	Consider and codify objective zoning standards with the goal of encouraging the creation of additional residential development and affordable homes. Further purposes include: • Address State laws that seek to reduce time involved in permitting processes • Increase certainty for applicants • Reduce administrative costs and burden associated with discretionary review.

Community Engagement to Date

Planning and Development staff conducted significant community engagement, regarding middle housing standards, both as a program within the adopted Housing Element and as a set of policy proposals in their own right. The outreach and engagement plan for the adopted Housing Element included 20 stakeholder interviews, a community-wide survey, 20 small format meetings, three work sessions with the City Council, tabling at community events, three public workshops, and 10 City boards and commission meetings (see Table 9).

While not all of these outreach efforts or events were specifically focused on Middle Housing, redevelopment within existing residential areas was a consistent theme in all of staff's outreach. Consultation with residents and neighborhood groups was a key part of the development of specific standards to encourage multi-unit development, within a framework based on City Council's direction in the Missing Middle Housing and Eliminating Exclusionary Zoning referrals.

The proposed zoning amendments include many elements that were directly informed by community engagement. For example, early in the process, staff heard consistent feedback that permitting larger buildings in existing residential areas may result in shadows that could have an adverse impact on solar power generation and could limit solar access to private open space. As a result of this feedback, staff engaged a consultant to conduct solar studies to ascertain the solar access effects off taller buildings. Based on these studies, staff is recommending a 35-foot average maximum height limit to help minimize impacts to solar access for most neighboring properties in existing residential areas.

Another common concern was the potentially adverse impact of more building mass in existing residential areas. Residents understood the need to provide more housing but did not want development standards to simply result in larger single-family homes. Staff's recommendation reflected this feedback in two ways. First, the development standards include lower maximum heights in the rear 15 feet of a building lot, to limit overall building bulk and to preserve air and light in mid-block open space. Second, staff's recommendation included scaling floor area ratio and lot coverage so that the development of larger buildings was more directly related to the provision of more housing units.

TABLE 9 COMMUNITY, COMMISSION AND COUNCIL MEETINGS

September 21, 2021	City Council Worksession #1 <i>Housing Element Update</i>
November 24, 2021- January 31, 2022	Community Walking Tours <i>West Berkeley Middle Housing Examples</i>

December 7, 2021	Public Workshop #1 <i>Housing Element & Residential Objective Standards</i>
December 9, 2021	City Council Worksession #2 <i>Housing Element Update</i>
December 15, 2021	Planning Commission and Zoning Adjustments Board Subcommittee <i>Residential Objective Standards</i>
January 27, 2022	Public Workshop #2 <i>Housing Element & Residential Objective Standards</i>
February 16, 2022	Planning Commission and Zoning Adjustments Board Subcommittee <i>Residential Objective Standards</i>
March 15, 2022	City Council Worksession #3 <i>Housing Element Update and Residential Objective Standards</i>
June 1, 2022	Planning Commission <i>Objective Standards for Middle Housing</i>
June 29, 2022	Public Workshop #3 <i>Housing Element & Residential Objective Standards</i>
September 20, 2022	City Council Worksession <i>Residential Objective Standards: Middle Housing and Southside</i>
August 2023	City Councilmember Briefings <i>Middle Housing</i>
November 1, 2023	Planning Commission <i>Middle Housing Discussion</i>
February 2, 2024	Planning Commission <i>Public Hearing: Middle Housing Zoning Changes</i>

The proposed zoning amendments are designed to satisfy the requirements of Program 29—Middle Housing in the adopted Housing Element.

Implications for Historic and Cultural Resources

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

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

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

The development of a citywide historic context statement has been proposed but has not yet been initiated. To reduce the time and cost related to such a study, an historic context statement could also be focused geographically on areas of the city that are either a) particularly rich in potential historic resources, and/or b) are anticipated to experience redevelopment as a result of the proposed ordinance.

Technical Edits

The proposed ordinance includes the following technical edits:

- *Renumbering of BMC Sections.* For ease of review, sections of the proposed ordinance that are exclusively renumbering of existing sections are highlighted in gray in **Attachment 2**.
- *Low-Barrier Navigation Center and Supportive Housing.* Government Code Section 65651 requires supportive housing and low barrier navigation centers to be a use by-right in any zone that permits multifamily uses. As the proposed ordinance would permit Multi-Family Residential uses in the R-1 zoning district, the Residential Allowed Use table would be amended to permit supportive housing and low barrier navigation centers with a ZC in the R-1 zoning district to comply with state law.

General Plan Amendments

~~The proposed zoning changes require conforming General Plan amendments. Attachment 3 is a resolution that includes the text of these amendments. The amendments are summarized below:~~

- ~~• *Removal of R-1A Zoning District:* The proposed zoning changes include consolidating parcels currently zoned as R-1A and R-2 into a single R-2 zoning~~

~~district. The proposed General Plan amendments include removal of references to the R-1A zoning district.~~

- ~~• **Land Use Classification Descriptions:** Currently, there are three different land use classifications that characterize the R-1, R-1A, R-2, and R-2A zoning districts:~~
 - ~~1. Low Density Residential for the R-1 and Environmental Safety Residential (ES-R) zoning districts.~~
 - ~~2. Low Medium Density Residential for the R-1A and R-2 zoning districts.~~
 - ~~3. Medium Density Residential for the R-2A and R-3 zoning districts.~~

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

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

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

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

BACKGROUND

City Council and Planning Commission Review

The City Council has held four Worksessions to discuss middle housing and residential objective standards. During these sessions, City Council considered issues such as how best to encourage a diversity of housing types, differentiation of standards in the Very High Fire Hazard Severity Zones, affirmatively furthering fair housing, and solar access.

Beginning in late 2021, the full Planning Commission and its Housing Element Subcommittee discussed middle housing on five occasions, and conducted a public

hearing on February 7, 2024 to recommend the proposed ordinance. The following list summarizes notable discussion points from each of those meetings, and feedback that the Commission provided to staff to inform the development of the ordinance:

December 15, 2021 and February 16, 2022: Planning Commission and Zoning Adjustments Board Subcommittees

- Encourage smaller units that are “affordable by design.”
- Permit more density while discouraging financial speculation.
- Balance the environmental trade-offs between protecting rooftop solar access and higher densities.

June 1, 2022: Planning Commission Discussion: Objective Standards for Middle Housing³

- Encourage smaller unit sizes and consider eliminating minimum lot size requirements.
- Reduce the minimum dimensions for required open space.

November 1, 2023: Planning Commission Discussion: Middle Housing⁴

- Prepare zoning ordinance amendments to encourage middle housing:
 - Include parcels located in the Hillside Overlay zone.
 - Remove the Floor Area Ratio (FAR) Maximum standard, as building bulk is sufficiently regulated through height and setback standards.
 - Remove the Maximum Residential Density standard, as regulating building size is the goal of the development standards, not limiting the number of units.
 - Increase Maximum Lot Coverage on all parcels to 60%, regardless of the number of units included in a proposed project.
- Prepare zoning amendments to permit demolition of single-family dwellings with a zoning certificate if associated with a middle housing project.

³ Agenda: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-06-01%20PC%20Agenda%20Packet_Final.pdf

⁴ Agenda: https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2023-11-01_PC_Agenda_Packet_Paginated.pdf

Relevant State Laws

Senate Bill 9 (SB 9) requires jurisdictions to ministerially approve two residential units on a parcel within a single-unit residential zone if the development meets specific objective criteria. The bill also requires ministerial review of projects proposing to subdivide one lot into two lots, each with a minimum area of 1,200 square feet, within a single-unit residential zone. It permits up to two units on each parcel (four total dwelling units on what was formerly a single-unit lot) and the new units can be achieved through new construction or conversions/ additions to existing structures. SB 9 applies to all single-family residential parcels not within historic districts, ecologically sensitive zones and other protected areas. In Berkeley, SB 9 applies to the R-1 and R-1H zoning districts.

The proposed ordinance includes provisions which permit Multi-Family Residential uses in the R-1 zoning district. Consequently, the R-1 zoning district would no longer be a single-family residential zone under State law, and SB 9 would no longer apply to parcels in that district.

Senate Bill 35 (SB 35) allows qualified multifamily infill projects to go through a ministerial housing approval process. Eligible projects must provide a minimum share of affordable units, follow certain labor provisions, and be consistent with objective standards. Qualifying projects are not subject to discretionary processes, such as CEQA environmental review and public hearings. Eligible projects with 150 units or fewer (such as middle housing projects) must be approved within 90 days and projects with more than 150 units must be approved within 180 days.

The proposed ordinance includes the codification of objective development standards for residential projects in the low-density residential zones. Middle housing projects located in low-density residential districts could be eligible for SB 35's streamlining provisions.

Senate Bill 478 (SB 478) prohibits a local agency from imposing an FAR less than 1.0 on a housing project with three to seven units, or less than 1.25 on a housing project with eight to 10 units.

State Density Bonus Law grants certain allowances for projects that include a stipulated amount of affordable housing. Such projects are permitted to include more units and to waive certain development standards, including maximum height, lot coverage, and open space requirements. Projects that utilize State Density Bonus are typically larger than the projects that are encouraged by the proposed zoning changes,⁵ but a project

⁵ The smallest project that has utilized State Density Bonus in the past two years in Berkeley included 11 units.

could not be prevented from using the State Density Bonus under the proposed zoning changes.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Housing Element Update EIR

Development projections for this project and all reasonably foreseeable growth resulting from development contemplated by the City's updated Housing Element were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update ("Housing Element Update EIR"), which was certified by the City Council on January 18, 2023.⁶

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

RATIONALE FOR RECOMMENDATION

The proposed ordinance includes the Planning Commission's recommended zoning ordinance amendments to encourage the development of middle housing in low density residential districts, consistent with Housing Element Program 29—Middle Housing and City Council referrals. The Alternative Actions Considered section, below, includes discussion of some policy alternatives that the City Council may also consider.

ALTERNATIVE ACTIONS CONSIDERED

In the course of developing its recommendation, the Planning Commission considered a number of other ordinance amendments recommended by staff.

Permit Requirements, Maximum Floor Area Ratio and Lot Coverage

During the middle housing policy development process, staff received feedback from both the City Council and the Planning Commission that the middle housing standards should promote the creation of more housing units, and should not simply allow larger unit sizes at low densities. The key trade-off within middle housing is that larger

⁶ Housing Element Update 2023-2031 Final EIR.

https://berkeleyca.gov/sites/default/files/documents/ATT%20%20FEIR_RTC.pdf

development projects are permitted, with the understanding that these projects contribute to addressing the city's housing shortage by providing more housing units. In response, staff proposed development standards that would scale based on the number of units included in a proposed project; that is, if a project includes more units, it can be larger.

While the proposed ordinance includes development standards that would permit Multi-Family Residential uses that include more units, they would also streamline the approval of larger Single-Family Residential uses. By treating all housing types similarly, the proposed ordinance does less to incentivize projects that include more units as compared to single-family dwellings. The Planning Commission generally did not support development standards that scaled up with the number of units, preferring instead a set of standards that incentivized all types of new housing while maximizing flexibility in the project design process.

Staff had recommended three specific provisions that were designed specifically to incentivize Multi-Family Residential uses that were not recommended by the Planning commission, and are therefore not included in the proposed Ordinance:

1. **Permit Approvals:** Consistent with Program 29-Middle Housing in the adopted Housing Element Update, staff had proposed permitting Multi-Family Residential uses with a Zoning Certificate, while still requiring a Use Permit for a Single-Family Residential use. The lower permit threshold for Multi-Family Residential would provide an incentive for a project sponsor to consider a Multi-Family Residential project.
2. **Maximum Floor Area Ratio (FAR):** While an effective maximum FAR can be calculated based on existing standards for lot coverage and maximum height, the Berkeley Municipal Code does not include a specific FAR standard in the R-1, R-1H, R-1A, R-2, R-2H, R-2A, and R-2AH districts. The City Council had provided feedback to staff to consider scaling an FAR standard to increase as the number of units increase on a site, and previous Zoning Adjustments Board and Planning Commission subcommittees have supported standards that encourage the development of smaller or medium-sized, cost-efficient units.

The proposed ordinance does not include Maximum FAR. The Planning Commission felt that building size was sufficiently regulated by height, setback and lot coverage standards, and that an additional development standard would complicate the project design process and was unnecessary.

Table 10 includes the Maximum FAR standards staff recommended to the Planning Commission:

TABLE 10 PROPOSED MAXIMUM FAR STANDARDS

	R-1(H)	R-2(H)	R-2A(H)	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	1.25	1.75	1.75

3. **Maximum Lot Coverage:** Similar to the rationale for scaling FAR by project size, staff had originally proposed scaling Maximum Lot Coverage by unit count. Staff received feedback that the middle housing standards should be designed to encourage projects that included more units, not to simply allow larger single-family dwellings. Staff's recommendation also preserved some of the distinctions between the R-1, R-2, and R-2A districts that permitted less lot coverage in traditionally lower-density zones.

The proposed ordinance includes a single Maximum Lot Coverage standard of 60% in the R-1(H), R-2(H) and R-2A(H) zones. The Planning Commission identified that the existing lot coverage standards were the most limiting development standard with respect to the promotion of middle housing projects, and so proposed a single, more expansive standard. The Planning Commission also noted that a single standard for all R-districts was more geographically equitable.

Table 11 shows the Maximum Lot Coverage Standards staff recommended to the Planning Commission:

TABLE 11 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%

Without provisions to scale allowed density based on the number of units proposed, Middle Housing zoning amendments could incentivize larger single-family homes rather than Multi-Family Residential Uses. For example, under the proposed ordinance, a single-family home with 60% lot coverage would be permitted with a ZC in the R-1 zoning district. Currently, a Use Permit is required, and the maximum lot coverage is 40%.

Maximum Density

Staff recommended both Minimum and Maximum Density standards to the Planning Commission. The recommendation was based on feedback that while the standards should encourage the development of more housing, middle housing projects should reflect the existing mix of multi-family housing types within neighborhoods. A Maximum Density standard would provide that, as well as a degree of predictability for existing residents as to what proposed projects may include.

The proposed ordinance does not include a Maximum Density Standard. The Planning Commission felt that the height, setback and lot coverage standards were sufficient to regulate project size, and that allowable project size would naturally limit densities to reasonable levels without the need to explicitly prohibit more than a certain number of units.

Error! Reference source not found. Table 12 shows the Minimum Density Standard recommended by Planning Commission alongside the Maximum Density Standard staff recommended to the Planning Commission, as well as the number of units that would result from the standards on a typical 5,000 square foot lot.

TABLE 12 DENSITY STANDARDS

	R-1	R-1H	R-1A	R-2	R-2H	R-2A	R-2AH	MU-R
Minimum Density (DU/acre)	10	No min.	10	10	No min.	20	No min.	20
Maximum Density (DU/acre)	25	20	35	35	20	55	55	55
Resulting units on a 5,000 sf lot								
Minimum Units	1	No min.	1	1	No min.	2	No min.	2
Maximum Units	3	2	4	4	2	6	6	6

Hillside Overlay

The City is currently undertaking a study of emergency evacuations of the Very High Fire Hazard Severity Zones and is also updating its Safety Element. Staff recommended to the Planning Commission that the middle housing zoning standards should not be applied to parcels in the Hillside Overlay zone until this study is completed. This would allow the policymakers to use the study to inform any zoning change that would result in

density increases in the Very High Fire Hazard Severity Zones. Opportunities to increase density in most of the Hillside Overlay (areas zoned R-1H) would still be available, pursuant to SB 9, to encourage middle housing.

The proposed ordinance includes parcels in the Hillside Overlay. The Planning Commission noted that it is important to ensure geographical equity in the accommodation of new housing units. The Planning Commission also recognized that recommendations could arise from the evacuation study and the preparation of the Safety Element and suggested that any needed changes to the standards could be introduced at a later date.

At its September 20, 2022 worksession, the City Council reviewed a proposed height standard that would reduce the Maximum Building Height within the Hillside Overlay to 28 feet (as opposed to 35 feet outside of the Hillside Overlay). The City Council also reviewed lower minimum and maximum density standards in the Hillside Overlay, as shown in Table 12 above. These standards were proposed to address concerns for both wildfire mitigation (e.g., less fire fuel in the form of building materials), structural fireground operations (e.g., ground ladder placement for access to windows and roof), and view preservation.

Residential Additions and Added Bedrooms

The proposed ordinance includes permitting Residential Additions with a ZC if they comply with the development standards for a Main Building, and revises the maximum height for Residential Additions to match those for Main Buildings. The proposed ordinance also includes a revision which removes additional requirements for bedrooms that are added to existing dwellings or lots developed with existing residential uses.

Staff recommended that these changes only apply in cases where a Residential Addition, or any additional bedrooms, are associated with the provision of new units. Staff thought it was inconsistent to allow new units with a ZC if they were included in a new development project, but to maintain a discretionary process for new units that happen to be part of an existing building. This approach was also consistent with feedback that the middle housing standards were to promote the development of Multi-Family Residential uses, not just the expansion of existing or proposed Single-Family Uses, as well as promote the adaptive reuse of existing buildings.

The proposed ordinance expanded these changes to apply to any Residential Addition and any new bedroom, even if the new Residential Addition or new bedroom did not result in a new unit, but only expanded an existing unit. The Planning Commission felt that the development standards should be more flexible to accommodate what it felt were shifting trends in household configurations and sizes, including cohousing and multi-generational households.

Administrative Use Permit for Demolition

The proposed ordinance includes a provision that permits demolition of a single-family home with a Zoning Certificate as long as the demolition is part of a project that results in a net increase in units. Program 29—Middle Housing in the adopted Housing Element included a requirement that the City Council consider this specific policy.

At its meeting of June 25, 2024, the City Council held a public hearing on proposed changes to BMC Chapter 23.326 (Demolition and Dwelling Unit Controls), which included permitting demolition of a single-family home with an AUP, as long as the demolition would be part of a project that included a net increase in units and the single-family home was not occupied by tenants.

At its meeting of February 7, 2024, the Planning Commission held a public hearing on the proposed middle housing ordinance. Accordingly, the proposed ordinance now includes permitting the demolition of single-family homes with a ZC.

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 an AUP.

Since 2021, when residential parking requirements were modified to incorporate parking maximums, many smaller, middle housing-scale projects have requested 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.

Staff had asked the Planning Commission to consider possible revisions to parking maximums. Feedback from community outreach included the following suggestions:

- Eliminating parking maximums for projects of 9 units or less; or
- 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.

While the Planning Commission acknowledged that parking maximums may make the marketing of middle housing projects more difficult, it indicated that existing policies related to greenhouse gas reduction and promoting alternatives to private vehicle travel continue to justify this policy and declined to recommend revisions to parking maximums.

Consolidation of Residential Zoning Districts

The proposed ordinance includes the elimination of the R-1A zoning district, merging it with the R-2 zoning district, as the two districts would be regulated similarly under the proposed ordinance.

Staff's recommendation to Planning Commission at its February 7, 2024 meeting included a number of development standards which the Commission did not ultimately include in its recommendation, specifically for Maximum FAR, Maximum Density and Maximum Lot Coverage. While these standards included distinctions across the zoning districts, their removal left only two development standards that differed across the districts: the Minimum Density Standard (10 du/acre in the R-1 and R-2; 20 du/acre in the R-2A and MU-R), and the minimum front setback standard (15 feet in the R-1/R-2, 10 feet in the R-2A, and between 5 feet and 10 feet in the MU-R). Accordingly, the Planning Commission discussed, but did not propose, that additional consolidations may be warranted.

Staff notes that although the development standards may be similar across the districts, there are distinctions in allowed land uses that can justify maintaining distinct zones. Mixed-Use Residential projects, for example, would still not be permitted in the R-1, and the MU-R district would continue to permit a wider range of residential and non-residential uses than the R-prefix districts.

CONTACT PERSON

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

Attachments:

- 1: Ordinance
 - Exhibit A: Parcels Rezoned from R-1A and R-2
- 2: Proposed Ordinance, Annotated
- 3: Resolution: General Plan Amendments
- 4: Development Standards Tables
- 5: Planning Commission Report: February 7, 2024
- 6: Public Hearing Notice

Table 1. Existing Development Standards

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-1A	R-2	R-2A	MU-R
		Single-Family	Ltd Two-Family	Restricted Two-Family	Restricted Multiple-Family	Mixed-Use Residential
Single-Family		UPPH	UPPH	UPPH	UPPH	AUP
Two-Family		NP	UPPH	UPPH	UPPH	AUP
Multi-Family		NP	NP	UPPH	UPPH	AUP/UPPH [10]
Low Barrier Navigation Center		NP	NP	ZC	ZC	ZC
Supportive Housing		NP	NP	ZC	ZC	ZC
Min Lot Area (SF)	New Lots	5000	5000	5000	5000	No min
	Min Lot Width (ft)	-	-	-	-	40
	Per DU	No min	No min	2500	1650	1,250
	2 Units	-	4500	No min	No min	-
Min Open Space (SF)	Per DU	400	400	400	300	150
	Live/Work	-	-	-	-	40
Max Avg Height, New Bldg or Non-Resi Addition (ft) Hillside max height 35'	Base	28	28	28	28	-
	Increase w/AUP	35	35	35	35	35
	Max Avg Height, Rear Main (ft)		22			
	Max Height, Resi/MU	-	-	-	-	35
	Max Height, Live-Work	-	-	-	-	28
	Live/Work w/UP	-	-	-	-	35
Max Avg Height, Resi addition (ft)	Base	14	14	14	14	-
	w/ AUP	35	35	35	35	-
Max Stories, New Bldg or Non-Resi Addition	Base	3	3	3	3	3
Max Stories, Rear Main		-	2	-	-	-
Max Lot Coverage Interior/Thru (%)	1 story	40	40	45	45	100
	2 stories	40	40	40	40	100
	3 stories	40	40	35	35	100
	Increase w/ AUP	-	-	-	-	100
Max Lot Coverage Corner (%)	1 story	40	45	50	50	100
	2 stories	40	45	45	45	100
	3 stories	40	45	40	40	100
	Increase w/ UP	-	-	-	-	-
Min Setback, Front (ft)	1st-2nd Story	20	20	20	15	-
	3rd Story	20	20	20	15	-
	Adjacent Non-R Dist	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	10
	Reduce w/ AUP	-	-	-	-	No min
Min Setback, Rear (ft)	1st-2nd Story	20	20	20	15	-
	3rd Story	20	20	20	15	-
	Adjacent Non-R Dist	-	-	-	-	0/5 [11]
	Adjacent R Dist	-	-	-	-	10/10% [12]
	Reduce w/ ZC	20%[3]	20%[3]	-	-	-
	Reduce w/AUP	-	12[6]	-	-	-
Min Setback, Interior Side (ft)	1st-2nd Story	4	4	4	4	-
	3rd Story	4	4	6	6	-
	1st-2nd Story w/ ZC	3/10%[4]	3/10%[4]	3/10%[4]	3/10%[4]	-
	3rd Story w/ ZC	3/10%[4]	3/10%[4]	5[4]	5[4]	-
	Adjacent Non-R Dist	-	-	-	-	0
	Adjacent R Dist	-	-	-	-	10/10% [12]
Min Setback, Street Side (ft)	1st Story	4	4	10	6	-
	2nd Story	4	4	10	8	-
	3rd Story	4	4	10	10	-
	Adjacent Non-R Dist	-	-	-	-	5
	Adjacent R Dist	-	-	-	-	10/10% [12]
Min Setback, Int/Street Rear Bldg (ft)		-	6	-	-	-
Min Bldg Separation (ft)	1st story	No min	8[9]	8	8	No min
	2nd story	No min	12[9]	12	12	No min
	3rd story	No min	16[9]	16	16	No min
	Reduce w/UP	-	P(AUP)	P(AUP)	P(AUP)	-

[1] If min 50% of floor area is Residential, UP to increase GLA density

[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] Whichever is greater. Lot width less than 40 ft, NP for rear main buildings in R-1A

[5] If MU or Residential W of San Pablo Ave

[6] To construct a dwelling unit and would not cause detrimental impact on neighboring properties.

[7] Lots <5,000 SF, no reductions for property lines abutting a property under different ownership.

[8] Lot <5,000 SF, max 1 dwelling unit and max gross floor area of 1,000 SF.

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

[10] 3 to 4 units requires AUP, 5+ units requires UP(PH)

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

[12] 10 ft of 10% of lot width, whichever is less

Table 2. Proposed Development Standards (DO NOT apply to R-1H, R-2H or R-2AH)

"-" = not applicable; P = Permitted UPPH = Use Permit Public Hearing NP = Not Permitted *Use-Specific Regs Apply		R-1	R-2	R-2A	MU-R
		Residenti al Multi- Unit 1	Residenti al Multi- Unit 2	Residenti al Multi- Unit 2A	Mixed-Use Residential
Single-Family		ZC	ZC	ZC	ZC
Multi-Unit Residential		ZC	ZC	ZC	ZC
Low Barrier Navigation Center		ZC	ZC	ZC	ZC
Supportive Housing		ZC	ZC	ZC	ZC
Min Density (DUA) - Round to the nearest whole number ¹		10	10	20	20
Max Density (DUA) – Round to nearest whole number		40	50	60	60
Min Lot Area (SF)	New Lots	5000	5000	5000	No min
Min Open Space (SF)	Per 1,000 sf floor area	150	150	150	150
	Live/Work	-	-	-	40
Maximum Height (ft) Main Buildings and Additions	Maximum	35	35	35	35
	Within 15’ of rear property line	22	22	22	22
Max Lot Coverage (%)		60	60	60	100
Min Setback, Front (ft)		5 [1]	5 [1]	5 [1]	5 [1]
Min Setback, Rear (ft)		5 [1]	5 [1]	5 [1]	5 [1]
Min Setback, Interior Side (ft)		4	4	4	4
Min Setback, Street Side (ft)		4	4	4	4
Min Bldg. Separation (ft)		5	5	5	5

[1] Minimum 5 ft. Rear and front setbacks must add up to a minimum of 20 ft.

¹ Minimum densities would apply for new development on a vacant lot or redevelopment and infill of existing nonvacant lots.

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

A RESOLUTION ADOPTING GENERAL PLAN AMENDMENTS, INCLUDING
AMENDMENTS TO THE LAND USE DIAGRAM TO RE-DESIGNATE CERTAIN
PARCELS, TO BE CONSISTENT WITH ASSOCIATED ZONING TEXT
AMENDMENTS TO PROMOTE MIDDLE HOUSING

WHEREAS, the City of Berkeley (“City”), in accordance with the provisions of California Government Code Section 65300 et seq., is required to adopt a General Plan for its long-range development, and further to periodically update that plan to reflect current conditions; and

WHEREAS, the adopted 2023-2031 Housing Element Update includes “Program 29 – Middle Housing” to pursue zoning map and development standard amendments to allow multi-unit development on one lot in the lower density districts: R-1, R-1A, R-2, R-2A and MU-R; and

WHEREAS, on October 9, 2024, the Planning Commission held a public hearing and considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, a public hearing notice was published in the Berkeley Voice and posted in three public places pursuant to California Government Code Section 65090 on September 27, 2024 for the Planning Commission public hearing held on October 9, 2024; and

WHEREAS, on April 29, 2025 the City Council held a duly noticed public hearing to consider the General Plan and zoning ordinance amendments, and make conforming changes to other BMC sections; and

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

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

WHEREAS, the proposed General Plan amendments reflect zoning ordinance amendments that were analyzed in the Environmental Impact Report (EIR) for the 2023-2031 Housing Element Update, which was certified by the City Council on January 18, 2023;

NOW, THEREFORE, IT BE RESOLVED by the City Council of the City of Berkeley that the General Plan text and General Plan Land Use Diagram are hereby amended, as shown in Exhibits A and B of this resolution; and

BE IT FURTHER RESOLVED that pursuant to California Government Code Sections 65353 and 65853, the Planning Commission makes the following findings to support its

recommendation for the General Plan text and map amendments included as Exhibits A and B of this resolution:

- (1) The proposed amendments are in the public interest.

Evidence: The General Plan amendments serve the public interest by facilitating additional housing capacity and production to better meet housing demand, by reversing historically discriminatory land use policies, and Affirmatively Furthering Fair Housing;

- (2) The proposed amendment is consistent and compatible with the General Plan.

Evidence: The proposed General Plan amendments would ensure internal consistency among General Plan elements.

- (3) The potential effects of the proposed amendment have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.

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

BE IT FURTHER RESOLVED, that the City Council as the final decision-making body for the lead agency, hereby adopts and incorporates by reference into this Resolution the CEQA Findings and Statement of Overriding Considerations (Exhibit C) with regard to the significant environmental effects of the Project.

Exhibits

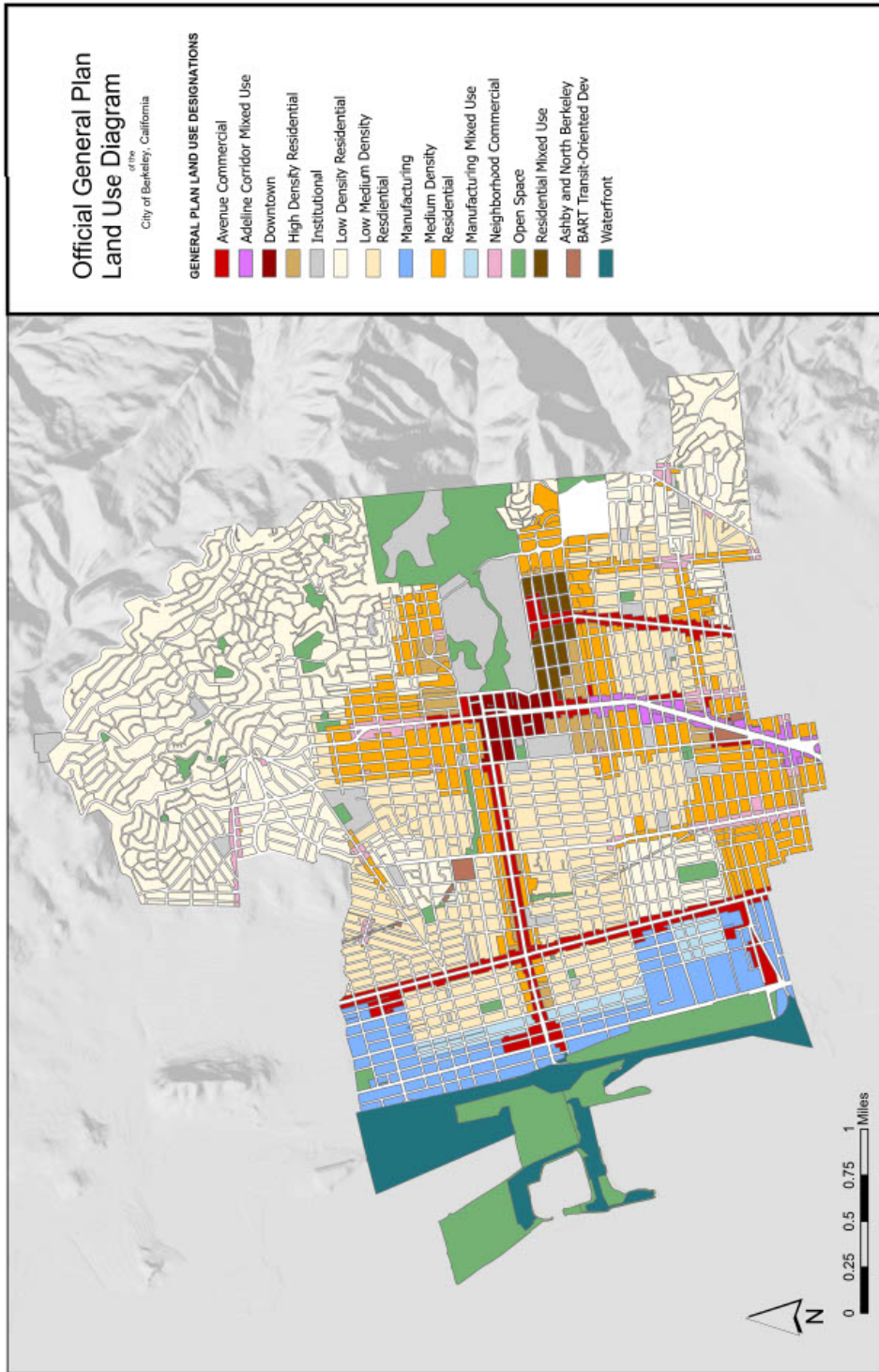
A: Maps of existing and proposed General Plan Land Use Diagram.

B: Text of General Plan amendments.

C: CEQA Findings and Statement of Overriding Consideration

Exhibit A

Map 1. Existing General Plan Land Use Designations



Map 2. Proposed General Plan Land Use Designations

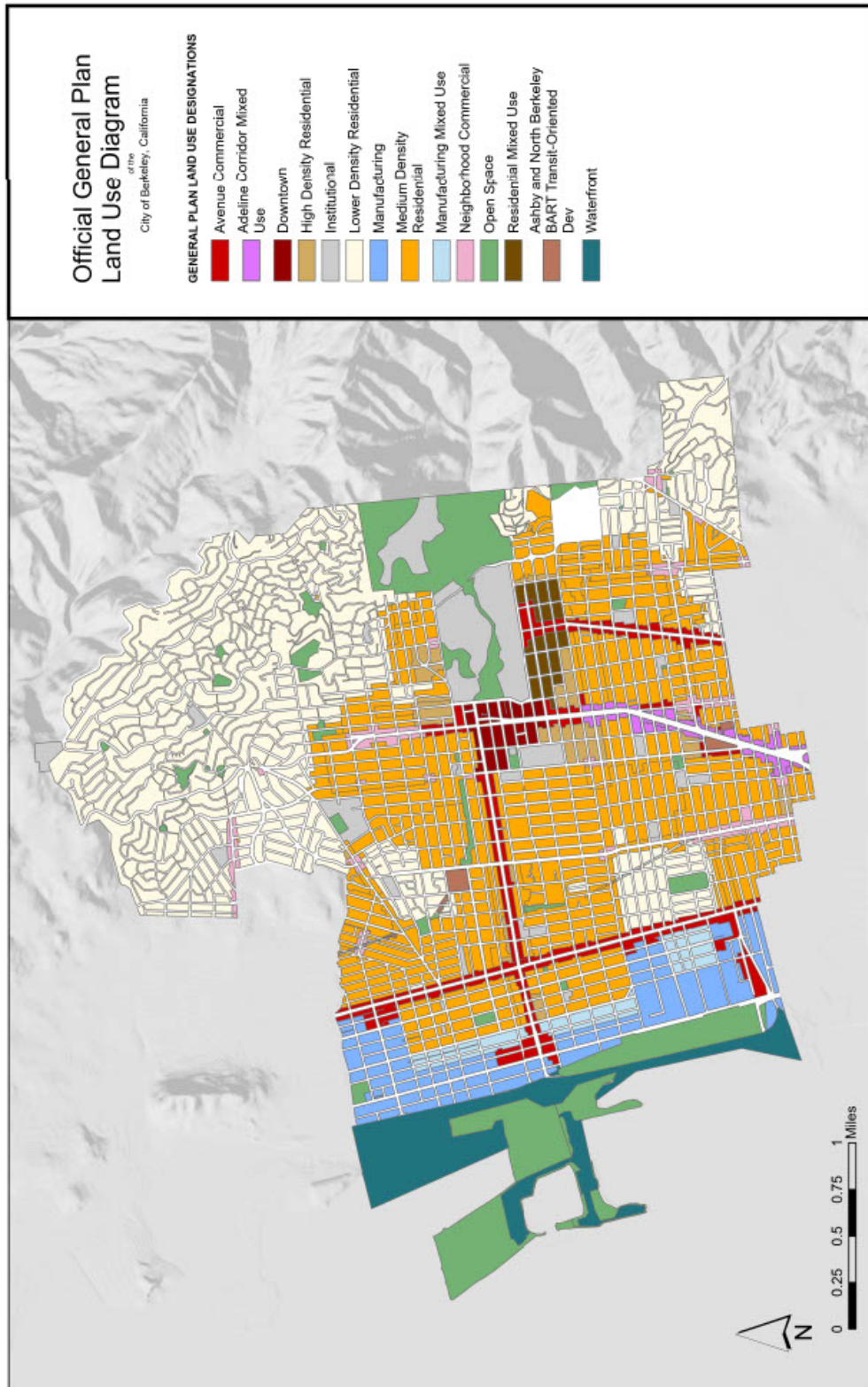


Exhibit B

General Plan Amendments for Middle Housing

Introduction

Page I-3

Goal #1. Preserve Berkeley's unique character and quality of life

Encourage Appropriate Infill Development. With little vacant land available for development, all new development in Berkeley will be infill development. To preserve Berkeley's character, it is essential that infill development be sensitively designed and thoughtfully planned to fit in with the existing built environment. The General Plan ~~leaves in place most~~ includes development standards and zoning created and implemented through previous area place processes, State law changes, and the implementation of the Housing Element. This zoning encourages development in downtown, and along the city's transit corridors, and in low-density residential neighborhoods. The General Plan calls for new development to contribute to the provision of necessary public improvements to serve current and future populations such as open space, transportation and affordable housing...

Page I-6

GP Goal: 4. Maximize and improve citizen participation in municipal decision making

Improve Citizen Participation

Citizens should be actively involved in making decisions about anything that will have an impact on them and their families and neighborhoods. The Plan mandates maximum citizen involvement in all public planning within the context of local and State policies and legal requirements that encourage and mandate the timely review of residential development projects. The Plan stresses the important role of neighborhoods and neighborhood groups in land use decisions.

Land Use Element

Page LU-3

Land Use Element policies are designed to maintain Berkeley's unique physical character, while allowing for additional housing development on underutilized sites within and in proximity to within the major high-quality transit corridors and Downtown and other changes to land use that are necessary to maintain, improve, adapt, and, where necessary, replace existing development

Page LU-4

The Land Use Element maintains and enhances Berkeley residential neighborhoods by ~~maintaining existing~~ encouraging zoning development standards that are consistent with historic development patterns that include smaller multi-family dwellings on a single lot, emphasizing the importance of protections from non-residential uses, and directing new higher-density housing to ~~the~~ high-quality transit corridors and the Downtown.

Page LU-11

Policy LU-7 Neighborhood Quality of Life

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

Actions:

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

LAND USE CLASSIFICATIONS

Pages LU-21 and LU-22

Lower Density Residential

These areas are generally characterized by single-family homes, and small multi-family structures. Appropriate uses for these areas include: residential, community services, schools, home occupations, recreational uses, and open space and institutional facilities. Building intensity ~~will~~ can range from one to ~~40~~ 50 dwelling units per net acre¹, not including secondary units, and the population density will generally not exceed ~~22~~ 110 persons per acre.

For information purposes, the compatible zoning districts for this classification are: ~~Single-Family Residential~~ Multi-Unit 1 (R-1), ~~which allows approximately 9 principle dwelling unit/acre,~~

and Environmental Safety- Residential (ES-R), which allows approximately 5 dwelling units per acre. Height limits in these zoning districts ~~are typically 28 feet with provisions to~~ allow up to 35 feet.

Low Medium Density Residential

~~These areas are generally characterized by single-family homes and small multi-family structures with two or three units. The same uses appropriate in Low Density Residential are appropriate in Low Medium Density Residential areas. Building intensity will range from 10 to 20 dwelling units per net acre, not including secondary units, and the population density will generally range from 22 to 44 persons per acre.~~

~~For information purposes, the compatible zoning districts for this classification are: Limited Two-family Residential (R-1A) and Restricted Two-family Residential (R-2), which allow approximately 17 units per acre. Height limits in these zoning districts are typically 28 feet with provisions to allow up to 35 feet.~~

Medium Density Residential

These areas of Berkeley are generally characterized by a mix of single-family homes and small to medium sized multi-family structures. The same uses appropriate in Lower Density Residential are appropriate in Medium Density Residential areas. Building intensity ~~will~~ can range from 20 to ~~40~~ 60 dwelling units per net acre, and the population density will generally range from 44 to ~~88~~ 132 persons per acre, with the exception of the Southside Plan Area.

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

For information purposes, the compatible zoning districts for this classification are: ~~Restricted Multi-family Residential Residential Multi-Unit 2 (R-2), Residential Multi-Unit 2A (R-2A), which allows approximately 17 units per acre,~~ and Multiple-family Residential (R-3), which allows approximately 26 units per acre. Height limits in the R-2, R-2A ~~zoning district are typically 28 feet with provisions to allow up to 35 feet, and are 35 feet in the~~ R-3 and R-3H zoning district are 35 feet (or 45 feet in the R-3 zoning district within the Southside Plan Area).

Page LU-24

Mixed Use-Residential

These areas are intended to maintain and preserve areas of the city for lighter manufacturing and industrial uses and allow for additional uses, including residential, where determined appropriate by zoning, and only if the use will not weaken Berkeley's manufacturing and industrial economy. Appropriate uses for these areas are identified in the West Berkeley Plan. Within these areas, building intensity will generally range from a Floor Area Ratio (FAR) of less than 1 to an FAR of 1.5. Population density will generally range from ~~22 to~~ 44 to 132 persons per acre, where housing is allowed.

For information purposes, the compatible zoning district for this classification is Mixed Use-Residential (MU-R), which allows a maximum FAR of 1.5 for non-residential uses and a maximum building height of ~~28 to~~ 35 feet.

Urban Design and Preservation Element

Page UD-17 [New]

Policy UD-22 Regulating New Construction and Alteration:

~~A. Except in the downtown area and consistent with the Green pathway approved by the voters November 2010, continue to require full Use Permits (with public hearings) for all residential projects, thereby enabling both the imposition of area sensitive conditions or approval and a ready means for citizen input.~~

~~BA.~~ Continue to encourage, ~~and consider requiring,~~ consultation with interested citizen groups in the early stages of a project.

~~CB.~~ Consider requiring developers to have a formal conference with City staff before they submit actual permit applications.

CEQA Findings and Statement of Overriding Considerations

for the

Middle Housing Zoning Amendments

**Pursuant to Sections 15091 and 15093 of the
State CEQA Guidelines and Section 21081 of the Public Resources Code**

The proposed Middle Housing Zoning amendments (“the project”) relies on the Final Environmental Impact Report (Final EIR) prepared by the City of Berkeley (City) for the City of Berkeley 2023-2031 Housing Element Update (HEU) Project. The Final EIR identifies significant environmental impacts that will result from implementation of the project. The City finds that the adoption of mitigation measures identified in the EIR as part of project approval will reduce all but the following significant environmental effects (impacts) to levels that are less than significant: historical resources, construction noise, and cumulative cultural resources, and cumulative construction noise.¹ For those impacts, no feasible mitigation measures have been identified to reduce these impacts to a less-than-significant level or mitigation measures have been identified and included but would not reduce impacts to a level of less than significant; therefore, these impacts will remain significant unavoidable impacts of the project. These findings contain a statement of overriding considerations that explains why the benefits of the proposed project outweigh the unavoidable adverse environmental effects and are therefore acceptable.

In accordance with CEQA and the CEQA Guidelines, the City adopts these findings as part of the project approval.

TABLE OF CONTENTS

SECTION 1: INTRODUCTION 3

SECTION 2: PROJECT DESCRIPTION: Middle Housing Zoning Amendments 3

SECTION 3: ENVIRONMENTAL REVIEW PROCESS 5

SECTION 4: FINDINGS 5

SECTION 5: FEASIBILITY OF PROJECT ALTERNATIVES 20

SECTION 6: STATEMENT OF OVERRIDING CONSIDERATIONS.....22

SECTION 7: INCORPORATION BY REFERENCE 23

SECTION 8: RECIRCULATION NOT REQUIRED.....23

SECTION 9: RECORD OF PROCEEDINGS 23

¹ The Final EIR also determined that wildfire impacts and cumulative wildfire impacts would be significant and unavoidable, but these impacts could only occur due to development within the City of Berkeley’s Very High Fire Hazard Zones. The project does not include parcels located in the City of Berkeley’s Very High Fire Hazard Zones.

SECTION 10:SUMMARY 24

SECTION 1: INTRODUCTION

1.1 Statutory Requirements for Findings

Public Resources Code Section 21094 states that:

(a) Where a prior environmental impact report has been prepared and certified for a program, plan, policy, or ordinance, the lead agency for a later project that meets the requirements of this section shall examine significant effects of the later project upon the environment by using a tiered environmental impact report, except that the report on the later project is not required to examine those effects that the lead agency determines were either of the following:

(1) Mitigated or avoided pursuant to paragraph (1) of subdivision (a) of Section 21081 as a result of the prior environmental impact report.

(2) Examined at a sufficient level of detail in the prior environmental impact report to enable those effects to be mitigated or avoided by site-specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

(b) This section applies only to a later project that the lead agency determines is all of the following:

(1) Consistent with the program, plan, policy, or ordinance for which an environmental impact report has been prepared and certified.

(2) Consistent with applicable local land use plans and zoning of the city, county, or city and county in which the later project would be located.

(3) Not subject to Section 21166.

(c) For purposes of compliance with this section, an initial study shall be prepared to assist the lead agency in making the determinations required by this section. The initial study shall analyze whether the later project may cause significant effects on the environment that were not examined in the prior environmental impact report.

(d) All public agencies that propose to carry out or approve the later project may utilize the prior environmental impact report and the environmental impact report on the later project to fulfill the requirements of Section 21081.

(e) When tiering is used pursuant to this section, an environmental impact report prepared for a later project shall refer to the prior environmental impact report and state where a copy of the prior environmental impact report may be examined.

(f) This section shall become operative on January 1, 2016.

SECTION 2: PROJECT DESCRIPTION: Middle Housing Zoning Amendments

This section provides a brief description of the project and lists the objectives of the proposed project.

2.1 Project Description

The project, which is the implementation of Program 29 – Middle Housing, in the [City of Berkeley 2023-2031 Housing Element \(Housing Element\)](#), includes a plan to amend the Berkeley Municipal Code to allow multi-unit development on single lots within Berkeley's lower-density residential districts: Single-Family Residential (R-1),

Limited Two-family Residential (R-1A), Restricted Two-family Residential (R-2), Restricted Multiple-family Residential (R-2A) and Mixed Use-Residential (MU-R) zoning districts (Housing Element p. 143-44).

¹ CEQA Guidelines Section 15091(a)(2) and (3).

² Public Resources Code Section 1903804.1

For the implementation of the project, the Draft EIR assumes growth of an estimated 1,745 units. This total may not include all potential residential development sites within the City limits, and individual sites may or may not be developed at the allowable densities. The placement and design of buildings on specific sites cannot be determined until the City receives an application for a specific project.

The EIR also analyzes alternatives to the project as described in Section 5, below.

2.2 Project Objectives

Pursuant to *CEQA Guidelines* Section 15124(b), the EIR project description must include “[a] statement of objectives sought by the proposed project... The statement of objectives should include the underlying purpose of the project.” The City of Berkeley 2023-2031 Housing Element Update is intended to achieve the following project objectives:

1. Adopt policies and programs that meet the City’s RHNA with the recommended buffer, provide additional housing opportunities consistent with other City priorities, remove governmental constraints to the maintenance, improvement and development of housing, and ensure ongoing compliance with State Housing Element law and the No Net Loss provisions of State law through the eight-year cycle.
2. Adopt policies and programs to encourage the development of affordable housing at a range of income levels consistent with RHNA, including at least 2,450 units for Very Low-Income households, at least 1,400 units for Low Income households, and at least 1,400 units for Moderate Income households.
3. Encourage the development of housing with access to transit, jobs, services, and community benefits in a manner that distributes affordable and special needs housing in high resource neighborhoods and affirmatively furthers fair housing.
4. Identify housing policies and programs that will conserve and rehabilitate existing units, provide services to increase housing opportunities for all residents of Berkeley, and increase the energy efficiency of both current and future housing units.

SECTION 3: ENVIRONMENTAL REVIEW PROCESS

Pursuant to the California Environmental Quality Act (CEQA), lead agencies are required to consult with public agencies having jurisdiction over a proposed project and to provide the general public with an opportunity to comment on the Draft EIR.

On January 14, 2022, the City of Berkeley issued a Notice of Preparation (NOP) for a 30-day comment period to receive input on the scope and content of the EIR and help identify the types of impacts that could result from the project as well as potential areas of controversy. The NOP was filed with the County Clerk, published in a local newspaper, and mailed to public agencies (including the State Clearinghouse), organizations, and individuals considered likely to be interested in the project and its potential impacts. The City received written responses to the NOP regarding the scope and content of the EIR. The City also held an EIR scoping meeting as part of the regularly scheduled Planning Commission meeting on February 9, 2022. No members of the public provided verbal comments at the scoping hearing, but several Planning Commissioners provided verbal comments.

The Draft EIR was made available for public review on August 30, 2022. The Notice of Availability of a Draft EIR was posted with the County Clerk, filed with the State Clearinghouse for distribution to state agencies, published in a local newspaper, and mailed to local agencies and interested organizations. A Notice of Completion was also filed with the State Clearinghouse. The Draft EIR and an announcement of its availability were posted electronically on the City’s website. The Draft EIR comment period closed on October 17, 2022. During the comment period, the City Planning Commission held a hearing to receive comments on the Draft EIR on September 7, 2022. The City received 16 comment letters (including emails) on the Draft EIR during

the public comment period.

SECTION 4: FINDINGS

The Middle Housing Zoning amendments are consistent with and within the scope of the project analyzed in the Housing Element Update Environmental Impact Report (“HEU EIR”). The “project description” for the HEU EIR states:

Middle Housing Rezoning R-1 R-1A, R-2, R-2A and MU-R districts are anticipated to increase in density based on the State’s adoption of SB 9 and a proposed HEU program to facilitate increased development in lower density districts. The City would review and amend the Zoning Code and applicable objective development standards to encourage a mix of dwelling types and sizes, to promote housing for middle- and moderate-income households and increase the availability of affordable housing in a range of sizes to reduce displacement risk for residents living in overcrowded units or experiencing high housing cost burden. (Draft EIR at 2-10)

The HEU EIR examined the Middle Housing Zoning amendments at a sufficient level of detail to enable those effects to be mitigated or avoided by site-specific revisions, the imposition of conditions, or by other means in connection with the approval of the later project.

The Middle Housing Zoning amendments are consistent with applicable local land use plans and zoning of the city, county, or city and county in which the later project would be located.

No substantial changes are proposed in the project which will require major revisions of the HEU EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effect.

No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. The HEU EIR was certified on November 30, 2022, less than three years ago. The City has also prepared an analysis evaluating the Middle Housing Zoning amendments’ consistency with the 2023-2031 Housing Element Update Environmental Impact Report (Attachment 1).

No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the HEU EIR was certified as complete, has been presented showing any of the following:

- (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
- (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The mitigation measures adopted for the HEU shall also apply and be required as a condition of approving projects pursuant to the Middle Housing Zoning amendments.

The HEU EIR concluded that the HEU would have the following significant and unavoidable impacts: historical resources, construction noise, wildfire, and cumulative cultural resources, cumulative construction noise, and cumulative wildfire impacts.

The following overriding economic, legal, social, technological, or other benefits of the Middle Housing Rezoning project outweigh the significant effects on the environment:

- The proposed project will ensure that the City of Berkeley meets its State-mandated RHNA requirements, including the required buffer to comply with the State Housing Element Law.
- The proposed project will encourage affordable housing, which is desired by the community and will contribute toward alleviating a shortage of housing in Berkeley and the region.
- The proposed project will encourage development of a variety of types of housing at a range of income levels.
- The proposed project will encourage the development of housing with access to transit, jobs, services, and community benefits in a manner that distributes affordable and special needs housing, including in high resource neighborhoods, and affirmatively furthers fair housing.

Pursuant to CEQA Guidelines Section 15168(c), the City prepared a consistency report (Attachment 1). This report demonstrates that the proposed project is consistent with the Middle Housing program analyzed in the 2023 program EIR, and that potential impacts associated with the proposed project would be consistent with potential impacts characterized in and mitigation measures developed for the 2023 EIR. Substantive revisions to the 2023 EIR are not necessary because no new significant impacts or impacts of substantially greater severity than previously described would occur as a result of the proposed project. Therefore, the following determinations are applicable:

- No further evaluation of environmental impacts is required for the proposed project
- No Subsequent EIR or negative declaration is necessary per CEQA Guidelines Section 15162, and no supplement to the 2023 EIR is necessary per CEQA Guidelines Section 15163
- This report is the appropriate level of environmental analysis and documentation for the proposed project in accordance with CEQA Guidelines Section 15168(c).

The City adopted CEQA findings pursuant to Public Resources Code section 21081 and CEQA Guidelines section 15091 for the HEU, which included the Middle Housing program, on February 17, 2023. The City incorporates those findings here by reference. See also Public Resources Code section 21094(d) ("All public agencies that propose to carry out or approve the later project may utilize the prior environmental impact report and the environmental impact report on the later project to fulfill the requirements of Section 21081."). The City has already adopted a mitigation monitoring and reporting program ("MMRP"), pursuant to CEQA Guidelines section 15091(d), for the HEU, which included the Middle Housing program, and hereby incorporates that MMRP by reference.

SECTION 6: STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the City has found that the proposed project will result in project and cumulative significant adverse environmental impacts related to historical resources and construction noise that cannot be avoided following adoption, incorporation into the proposed project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the proposed project's significant environmental impacts. CEQA Guidelines §15093(b) provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. See also Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the proposed project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the proposed project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the proposed project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the project can be found in the preceding sections of these Findings, in the Project itself, and in the record of proceedings as defined in Section 9, below. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

The City further finds that these significant unavoidable impacts are outweighed by the benefits of the proposed project, each of which, independently of the others, constitutes overriding consideration warranting approval of the proposed project. Those benefits, and additional considerations related to this finding, are as follows:

- The proposed project will ensure that the City of Berkeley meets its State-mandated RHNA requirements, including the required buffer to comply with the State Housing Element Law.
- The proposed project will encourage affordable housing, which is desired by the community and will contribute toward alleviating a shortage of housing in Berkeley and the region.
- The proposed project will encourage development of a variety of types of housing at a range of income levels.
- The proposed project will encourage the development of housing with access to transit, jobs, services, and community benefits in a manner that distributes affordable and special needs housing, including in high resource neighborhoods, and affirmatively furthers fair housing.

On balance, the City finds that there are specific economic, legal, social, technological, or other benefits of the project serves to override and outweigh the significant unavoidable effects identified in the Final EIR. Therefore, pursuant to *CEQA Guidelines* Section 15093(b), the City finds that these significant adverse environmental effects are considered acceptable.

SECTION 7: INCORPORATION BY REFERENCE

These findings incorporate the text of the Final Environmental Impact Report for the City of Berkeley 2023-2031 Housing Element Update, Resolution No. 70,669 (adopting CEQA findings for the HEU and certifying the HEU EIR and adopting the MMRP for the HEU) by reference and in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, the basis for determining the significance of impacts, the comparative analysis of alternatives, the determination of the environmentally superior alternative, and the reasons for approving the Project in spite of the potential for associated significant and unavoidable adverse impacts.

SECTION 8: RECIRCULATION NOT REQUIRED

The project would not result in new or substantially more severe significant impacts than disclosed previously in the Draft EIR. Therefore, recirculation of the EIR is not required.

SECTION 9: RECORD OF PROCEEDINGS

Various documents and other materials related to the project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the City of Berkeley Department of Planning and Development, 1947 Center Street, 2nd floor, Berkeley, CA 94704.

SECTION 10: SUMMARY

A. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant effects of the project:

1. Changes or alterations have been required in, or incorporated into, the project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
3. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the project.

B. Based on the foregoing Findings and the information contained in the record, the City determines that:

1. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
2. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations in Section 6, above.

Attachment 1: *Middle Housing Zoning and General Plan Amendments, Evaluation of Consistency with the 2023-2031 Housing Element Update Environmental Impact Report* (SCH # 2022010331)



Middle Housing Zoning and General Plan Amendments

Evaluation of Consistency with the 2023-2031 Housing
Element Update Environmental Impact Report
SCH # 2022010331

prepared by

City of Berkeley

Planning & Development Department

Land Use Division

1947 Center Street, 2nd Floor

Berkeley, California 94704

Contact: Justin Horner, Principal Planner

prepared with the assistance of

Rincon Consultants, Inc.

66 Franklin Street, Suite 300

Oakland, California 94607

April 2025

Table of Contents

1	Introduction	1
2	Background	2
2.1	2023-2031 Housing Element Update	2
2.2	2023-2031 Housing Element Update EIR	2
3	Middle Housing Zoning and General Plan Amendments Project	5
3.1	Project Location.....	5
3.2	Project Description	5
3.3	Proposed Project in Relation to 2023 EIR.....	7
4	Environmental Impacts	9
4.1	Aesthetics	9
4.2	Air Quality.....	12
4.3	Biological Resources	16
4.4	Cultural Resources.....	17
4.5	Energy.....	21
4.6	Geology and Soils	22
4.7	Greenhouse Gas Emissions	25
4.8	Hazards and Hazardous Materials.....	26
4.9	Hydrology and Water Quality.....	29
4.10	Land Use and Planning	31
4.11	Noise.....	32
4.12	Population and Housing	35
4.13	Public Services and Recreation.....	36
4.14	Transportation.....	36
4.15	Tribal Cultural Resources.....	38
4.16	Utilities and Service Systems	39
4.17	Wildfire.....	40
5	Conclusion.....	43
6	References and Preparers.....	44
6.1	References.....	44
6.2	List of Preparers	44

Tables

Table 1	2023 EIR Projected Buildout.....	3
---------	----------------------------------	---

Figures

Figure 1	Affected Zoning Districts	6
Figure 2	Transit Priority Areas in Berkeley	10

City of Berkeley

Middle Housing Zoning and General Plan Amendments

1 Introduction

This document evaluates the consistency of the proposed Middle Housing Zoning and General Plan Amendments (“amendments” or “proposed project”) with the 2023-2031 Housing Element Update (HEU) Environmental Impact Report (EIR) (State Clearinghouse #2022010331) (“2023 EIR”). The 2023 EIR was certified, the mitigation measures in the EIR were adopted and incorporated into the HEU, and the HEU was approved by the City of Berkeley (“City”) on January 18, 2023. The 2023 EIR is available for public review at:

City of Berkeley
Planning & Development Department
Land Use Division
1947 Center Street, 2nd Floor
Berkeley, California 94704

The document is also available on the City’s website: <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/housing-element-update>. The 2023 EIR is hereby incorporated into this document by reference.

Section 15168 of the California Environmental Quality Act (CEQA) Guidelines, codified in Sections 15000 et seq. of Title 14 of the California Code of Regulations, discusses the use of a Program EIR for environmental review of a subsequent project that is consistent with the program analyzed in the EIR. A lead agency may approve the subsequent activity as being within the scope of the project covered by the EIR; in that instance, no new environmental document would be required. As discussed in CEQA Guidelines Section 15168(c), “Factors that an agency may consider in making that determination include, but are not limited to, consistency of the later activity with the type of allowable land use, overall planned density and building intensity, geographic area analyzed for environmental impacts, and covered infrastructure, as described in the program EIR.” CEQA Guidelines Section 15168(c) also refers to Section 15162 as a guide for this determination. Section 15162 asks whether there is “[n]ew information of substantial importance” that the project would “have one or more significant effects not discussed in the previous EIR or negative declaration [or that] significant effects previously examined will be substantially more severe than shown in the previous EIR.”

The analysis herein demonstrates that the proposed project is consistent with the 2023-2031 Housing Element Update analyzed in the prior Program EIR; there is no new information of substantial importance suggesting that the project would have new or increased significant effects and that the project may be approved pursuant to CEQA Guidelines Section 15168(c) without preparation of a subsequent or supplemental EIR.

2 Background

This section provides an overview of 2023-2031 Housing Element Update (HEU) and its EIR as they pertain to the proposed project to provide context for this consistency evaluation.

2.1 2023-2031 Housing Element Update

2023-2031 Housing Element Update

The City of Berkeley's 2023-2031 HEU was adopted by the City Council in January of 2023 and certified by the California Department of Housing and Community Development in February of 2023. The 2023-2031 HEU project amended the City's General Plan by replacing the 5th Cycle Housing Element with the 2023-2031 6th Cycle Housing Element and amended other portions of the City's General Plan and Zoning Ordinance as needed for consistency and HEU implementation. The HEU includes Program 29 – Middle Housing Program, which is intended to “encourage and promote a mix of dwelling types and sizes, particularly infill and converted existing housing in high resource neighborhoods.” The HEU also identifies implementation measures for the Middle Housing Program, including amending the zoning code to allow multi-unit development on one lot in the R-1, R-1A, R-2, R-2A, and MU-R districts and amending the Berkeley Municipal Code Chapter 23.326, Demolition Ordinance, to provide a by-right pathway for demolition of single-family residences for projects that add density, were not tenant-occupied within the past five years, and did not undergo an Ellis Act eviction within the preceding five years.

2.2 2023-2031 Housing Element Update EIR

Pursuant to CEQA Guidelines Section 15150, the 2023 EIR, which is incorporated into this document by reference, examined the potential environmental effects of the HEU, including its programs and their implementation.

2023 EIR Buildout

Table 1 summarizes the buildout analyzed in the 2023 EIR, which is based on the 2023 EIR Sites Inventory of 15,153 units, an additional 1,200 units at the Ashby and North Berkeley BART stations, and projections for implementation programs – Middle Housing Rezoning (the proposed project) and the Southside Zoning Modification Project – totaling 2,745 units. Overall, the 2023 EIR assumed that implementation of the HEU's programs could facilitate up to 19,098 additional units in Berkeley.

Table 1 2023 EIR Projected Buildout

Total New Units	
EIR Sites Inventory	
Likely Sites	4,685
Pipeline Sites	2,415
Opportunity Sites	8,053
Implementation Programs	
Middle Housing Rezoning	1,745
Southside Zoning Modification Project	1,000
Ashby and North Berkeley BART Stations	1,200
Overall EIR Growth Assumption	19,098
Source: City of Berkeley 2023a	

The Middle Housing Program was summarized as follows in the 2023 EIR's project description.

Middle Housing Rezoning. R-1 R-1A, R-2, R-2A and MU-R districts are anticipated to increase in density based on the State's adoption of Senate Bill (SB) 9 and a proposed HEU program to facilitate increased development in lower density districts. The City would review and amend the Zoning Code and applicable objective development standards to encourage a mix of dwelling types and sizes, to promote housing for middle- and moderate-income households and increase the availability of affordable housing in a range of sizes to reduce displacement risk for residents living in overcrowded units or experiencing high housing cost burden.

The Turner Center's SB 9 modeling indicates that the City of Berkeley could anticipate approximately 1,100 total new market-feasible units through SB 9 (Turner Center 2021). Using HCD's methodology, and to ensure that proposed zoning would not result in a reduction in allowable residential development, the 2023 EIR assumes 770 additional units distributed throughout the R-1 districts for the 2023-2031 period. Additionally, based on current development trends and anticipated zoning changes, 975 additional units are distributed throughout the R-1A, R-2, R-2A and MU-R districts, for a total of 1,745 middle housing units in the 2023-2031 period.

Thus, the environmental analysis in the 2023 EIR accounted for a potential addition of 1,745 "middle housing units" in the R-1 R-1A, R-2, R-2A and MU-R districts as part of Housing Element implementation.

2023 EIR Summary

The 2023 EIR found the following impacts to be less than significant without mitigation: aesthetics, biological resources, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, population and housing, public services and recreation, transportation, and utilities and service systems.

The 2023 EIR found that the following impacts would have less-than-significant impacts with implementation of mitigation measures identified in the 2023 EIR:

- Air Quality
- Cultural Resources
- Tribal Cultural Resources
- Wildfire

City of Berkeley

Middle Housing Zoning and General Plan Amendments

▪ **Geology and Soils**

Mitigation Measure AQ-1 (Construction Emissions Reduction Measures), Mitigation Measure AQ-2 (Construction Health Risk Assessment), and Mitigation Measure AQ-3 (TAC Exposure Reduction Building Measures) would reduce air quality impacts to less than significant levels. Mitigation Measure GEO-1 (Protection of Paleontological Resources) would reduce geology and soils impacts to less than significant levels. Mitigation Measure TCR-1 (Tribal Cultural Monitoring) would reduce tribal cultural resources impacts to less than significant levels.

The 2023 EIR found that the HEU would have significant and unavoidable impacts related to cultural resources. Mitigation Measure CUL-1 (Historic Context Statement, Cultural Resources Survey and Designations) and Mitigation Measure CUL-2 (Historic Resources Discretionary Review) would reduce cultural resources impacts to the maximum extent feasible. However, even with implementation of mitigation measures, existing historical resources and historical resources eligible for listing could still be materially impaired by future development that would result from implementation of the HEU. Specifically, the project, which includes permitting residential units with a Zoning Certificate (a ministerial action) could result in adverse impacts to as yet unidentified cultural resources. Therefore, cultural resources impacts would remain significant and unavoidable.

The 2023 EIR also found that the HEU would have significant and unavoidable impacts related to noise. Although future development facilitated by the HEU would be required to comply with the City's Standard Conditions of Approval, which would reduce construction noise impacts to the extent feasible, larger developments involving lengthier construction durations with the use of larger, heavy-duty equipment could still exceed the City's standards for stationary equipment in both multi-family residential and commercial zones. Furthermore, construction noise levels could exceed the City's standards at multiple sites where the HEU would facilitate development in Berkeley. Therefore, construction noise impacts would remain significant and unavoidable.

The 2023 EIR also found that the HEU would have significant and unavoidable impacts related to wildfire. The HEU would facilitate development in a very high fire hazard severity zone (VHFHSZ). Adherence to City regulations and procedures and implementation of Mitigation Measure W-1 (Undergrounding of Power Drops in the VHFHSZs) would reduce the risk of fire during construction, but not to a less-than-significant level. That is because, for some development projects, even with implementation of wildfire prevention measures, impacts may result from the potential for unusual site-specific or road conditions, project characteristics, and the general ongoing fire risk in Berkeley Hills. Therefore, wildfire impacts would remain significant and unavoidable.

3 Middle Housing Zoning and General Plan Amendments Project

3.1 Project Location

The project would amend zoning and general plan provisions related to the City's R-1 R-1A, R-2, R-2A and MU-R zone districts. The 2023 EIR studied the impacts of the proposed amendments in all of these districts including those portions within the Hillside Overlay. However, the proposed Middle Housing Zoning and General Plan Amendments project (proposed project) was subsequently revised after certification of the 2023 EIR to reduce the overall area that would be subject to zoning changes to exclude parcels within the Hillside Overlay. The affected zoning districts are shown in Figure 1.

3.2 Project Description

As noted above in Section 1, *Background*, the HEU includes Program 29—Middle Housing, which proposed to amend the zoning ordinance to allow multi-unit development on single lots in lower density districts. Accordingly, the City is now proposing to implement the zoning ordinance and General Plan amendments proposed under the HEU.

Proposed Zoning Ordinance Amendments

The proposed project includes zoning ordinance amendments to encourage the development of Multi-Family Residential Uses in the R-1, R-1A, R-2, R-2A and MU-R zoning districts. Consistent with the requirements of Program 29-Middle Housing, the proposed project would permit multi-unit development (residential uses with 2 or more units) in these districts and include development standards that would physically accommodate feasible multi-unit development on one lot. The proposed changes include:

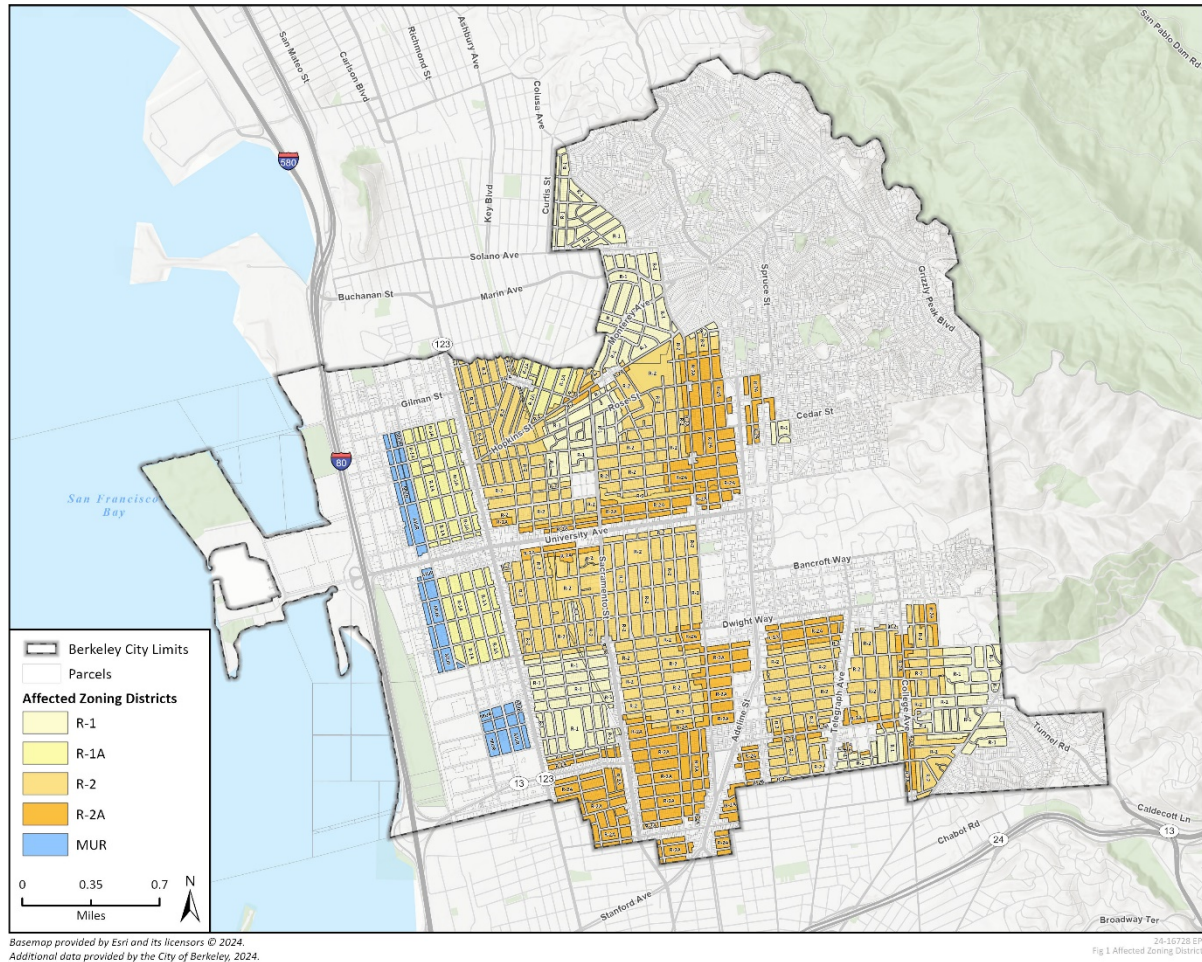
- Permitting Single-Family Residential and Multi-Family Residential uses with a Zoning Certificate (ZC)
- Eliminating the R-1A zoning district and rezoning all current R-1A parcels to R-2 parcels;
- Revising development standards related to building height, lot coverage and setbacks, to permit larger residential buildings;
- Establishing new minimum and maximum density standards;
- Revising requirements related to Residential Additions and additional bedrooms;
- Limiting the size of new single-family homes that are permitted with a ZC; and
- Permitting demolition of single-family homes with a ZC if they are part of a project that includes a net increase in units.

The proposed development standards largely preserve existing zoning code maximum height limits of 35 feet, while providing development standards that permit larger projects (and more dwelling units) through a nondiscretionary process based on objective standards. The proposed standards also include lower maximum heights near the rear property line, in consideration of potential impacts on neighboring properties and solar access.

City of Berkeley

Middle Housing Zoning and General Plan Amendments

Figure 1 Affected Zoning Districts



Proposed General Plan Amendments

The proposed zoning changes require conforming General Plan amendments. The amendments include:

- **Removal of R-1A Zoning District.** The proposed zoning changes include consolidating parcels currently zoned as R-1A and R-2 into a single R-2 zoning district. The proposed General Plan amendments include removal of references to the R-1A zoning district.
- **Land Use Classification Descriptions.** Currently, there are three different land use classifications that characterize the R-1, R-1A, R-2, and R-2A zoning districts
 1. Low Density Residential for the R-1 and Environmental Safety Residential (ES-R) zoning districts.
 2. Low Medium Density Residential for the R-1A and R-2 zoning districts.
 3. Medium Density Residential for the R-2A and R-3 zoning districts.

Staff proposes reducing the number of land use classifications that apply to these districts to two. This is consistent with the Planning Commission's recommendation to consolidate the R-1A

and R-2 zoning districts and to adopt development standards that are largely consistent across these low-density residential zoning districts. Specifically, staff recommends:

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

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

- **Encouraging Transit-Proximate Infill.** Adds language to note State law requirements, the Housing Element, and encouraging infill in low-density neighborhoods, and revises language to clarify that residential uses are to be encourage "in proximity" to transit corridors, not just "along" transit corridors.
- **Changing Existing Zoning Standards.** Current General Plan language includes a policy of "maintaining existing zoning" in residential neighborhoods. The zoning ordinance amendments change existing development standards in residential neighborhoods. Adds language that the General Plan encourages "zoning development standards that are consistent with historic development patterns that include smaller multi-family dwellings on a single lot."
- **Allowing Residential Uses Ministerially.** The zoning ordinance amendments include permitting residential uses with a ZC. The General Plan amendments remove language that requires preservation of Use Permits for all residential projects.
- **General Plan Map Amendments.** Consistent with the recommended General Plan text changes, the General Plan Map would be amended to a) rename the Low Density Residential classification; and b) expand the Medium Density Residential classification to include the R-2 and R-2A zoning districts.

Consistency with Housing Element Program 29 – Middle Housing

The proposed project is consistent with Housing Element Program 29—Middle Housing, as described and analyzed in the 2023 EIR. As noted above, the 2023 EIR described the program as increasing residential development densities for the lower density residential districts, including R-1, R-1A, R-2, R-2A and MU-R. According to the 2023 EIR, the program would also "review and amend the Zoning Code and applicable objective development standards to encourage a mix of dwelling types and sizes, to promote housing for middle- and moderate-income households and increase the availability of affordable housing in a range of sizes."

The proposed project is smaller in scope than the project analyzed in the 2023 EIR, as it does not apply to parcels located in the Hillside Overlay zoning district.

The proposed zoning and General Plan amendments accomplish these goals by allowing multi-unit residential development in R-1, rezoning R-1A parcels R-2, establishing new minimum and maximum densities in these districts, revising development standards to permit larger structures (with more

City of Berkeley

Middle Housing Zoning and General Plan Amendments

units), and streamlining the permitting process for qualifying residential development and demolition necessary to construct additional residential units.

Projected Buildout

The City has conducted an analysis of the affected parcels to determine the potential buildout under the proposed amendments. As noted above, the 2023 EIR conducted a similar analysis and concluded that the Housing Element Update could be expected to produce 1,745 middle housing units in the 2023-2031 period.

Under the proposed zoning and General Plan amendments, the City would expect fewer SB 9 units than anticipated in the 2023 EIR, because the proposed amendments permit multi-unit residential development in the R-1 zoning district outside of the Hillside Overlay zoning district, thereby rendering this part of the R-1 zoning district no longer a “single-family residential zone” subject to SB 9. The changes to minimum and maximum densities in the R-1, R-1A, R-2, R-2A and MU-R districts, as well as the conversion of R-1A parcels to R-2 parcels, would result in approximately 876 new residential units.

The City reached this conclusion by determining that approximately 8,380 parcels could be developed or redeveloped with more residential units under the proposed project. These parcels were included in the projection because they meet the following conditions:

- Located in the R-1, R-1A, R-2, R-2A and MU-R districts;
- Are not in the Hillside Overlay;
- Are at least 3,000 square feet in area (estimated minimum size for likely middle housing development); and
- Are either vacant or occupied by a single-family dwelling unit or a duplex.

For the 8,380 parcels identified, a total of **876 units** was projected using the methodology used in the 2023 EIR. Estimated buildout includes:

- **3,246 parcels in the R-1 District are estimated to produce 260 units.** The projection of 260 units throughout the R-1 zoning district was calculated using the same methodology used on the 2023 EIR, which was based on a study from the Turner Center of redevelopment potential in low-density zones subject to SB 9.¹ Because SB 9 permits lot splits and multi-family development on parcels in single-family zoning districts at densities similar to those allowed by the Middle Housing zoning changes, SB 9 estimates from the Turner Center are a reasonable approximation of the level of the development the City can expect from the proposed Middle Housing changes. The Turner Center’s SB 9 modeling indicated that the City of Berkeley could anticipate approximately a 0.08 utilization rate from eligible parcels. 3,246 eligible parcels x 0.08 = 260 total units.
- **5,134 parcels in the R-1A, R-2, R-2A, and MU-R districts are estimated to produce 616 units.** The projection of the additional 616 units throughout the R-1A, R-2, R-2A and MU-R zoning districts was based upon the application of a utilization rate to 5,134 parcels in these districts identified as single-family homes or duplexes, and therefore most likely to redevelop under the Middle Housing zoning changes. Staff used the Turner Center’s methodology in the case of

¹ <https://turnercenter.berkeley.edu/wp-content/uploads/2021/07/SB-9-Brief-July-2021-Final.pdf>

these parcels, as well, but increased the rate by 50% (to 0.12), as staff determined, based on project proposals and development trends at the time of the preparation of the 2023 EIR, that it was about 50% more likely that redevelopment would take place on more standard flatlands lots (5,134 parcels x 0.12 = 616).

Therefore, overall, the proposed project would result in an additional 876 units compared to existing conditions, which is less than the 1,745 units estimated in the 2023 EIR.

3.3 Proposed Project in Relation to 2023 EIR

The project would amend zoning and General Plan provisions related to the City's R-1 R-1A, R-2, R-2A and MU-R zone districts as envisioned in the HEU and analyzed in the 2023 EIR. The 2023 EIR studied the impacts of the proposed amendments in all of these districts, including those portions within the Hillside Overlay. However, the proposed project reduces the area of the City where the project's changes would apply, as the changes currently proposed would not apply to parcels within the Hillside Overlay.

The 2023 EIR estimated that the Middle Housing Program would result in up to 1,745 new residential units compared to existing conditions in the affected zoning districts, including within the Hillside Overlay. Using the same methodology as the 2023 EIR, it is estimated that the amendments as proposed would now generate up to 876 new residential units compared to existing conditions. Overall, the proposed project would result in less buildout than what was anticipated and evaluated in the 2023 EIR by 869 units. Therefore, the project is consistent with the type of allowable land use, overall planned density and building intensity, and geographic area analyzed for environmental impacts in the 2023 EIR. Moreover, because it would result in less buildout, it would have lesser environmental impacts than identified in the 2023 EIR.

4 Environmental Impacts

Consistent with CEQA Guidelines sections 15168(c)(2) and 15162, this section evaluates the project's potential environmental impacts with respect to the analysis in the 2023 EIR to determine whether additional environmental analysis is required. The existing (2024) environmental conditions in the affected zoning districts are substantially the same as the existing conditions described in the 2023 EIR, as substantial new development has not occurred in these areas.

Appendix G of the *CEQA Guidelines* provides a checklist of environmental topic areas suggested for assessment in CEQA analyses. This report evaluates all of these issue areas, which are listed below, with the exception of Agriculture and Forest Resources and Mineral Resources, as these resources are not present within the affected zone districts.²

- | | |
|-----------------------------------|---------------------------------|
| ▪ Aesthetics | ▪ Land Use and Planning |
| ▪ Air Quality | ▪ Noise |
| ▪ Biological Resources | ▪ Population and Housing |
| ▪ Cultural Resources | ▪ Public Services |
| ▪ Energy | ▪ Recreation |
| ▪ Geology and Soils | ▪ Transportation |
| ▪ Greenhouse Gas Emissions | ▪ Tribal Cultural Resources |
| ▪ Hazards and Hazardous Materials | ▪ Utilities and Service Systems |
| ▪ Hydrology and Water Quality | ▪ Wildfire |

4.1 Aesthetics

Impacts Identified in the 2023 EIR

As discussed in Section 4.1, *Aesthetics*, of 2023 EIR, the HEU, which includes the proposed project, would not have a substantial adverse effect on a scenic vista since most new buildings would be of a similar height as existing development and views that would be affected are already fully or intermittently impeded by mature trees and buildings. Development under the HEU, which includes the proposed project, would be subject to the City's general development standards (Berkeley Municipal Code [BMC] Chapter 23.304) as well as objective development standards to ensure that buildings are compatible with neighboring land uses and architectural design and scale. Development under the HEU would replace facilities such as parking lots with buildings that may reduce nighttime sources of light, and new light sources would likely be adjacent and similar to nearby light sources. Development would also be required to comply with BMC Sections 23.304.100 and 23.304.130 which require exterior lighting to be shielded to avoid light spillover onto adjacent residential properties. Furthermore, the closest State Scenic Highway to the city is I-580 in Oakland approximately 1.6 miles from the city limits, and the closest eligible State Scenic Highway is SR 13 located approximately 0.5 miles from the city limits. The proposed project would not have a substantial adverse effect on a scenic vista, conflict with applicable local regulations governing

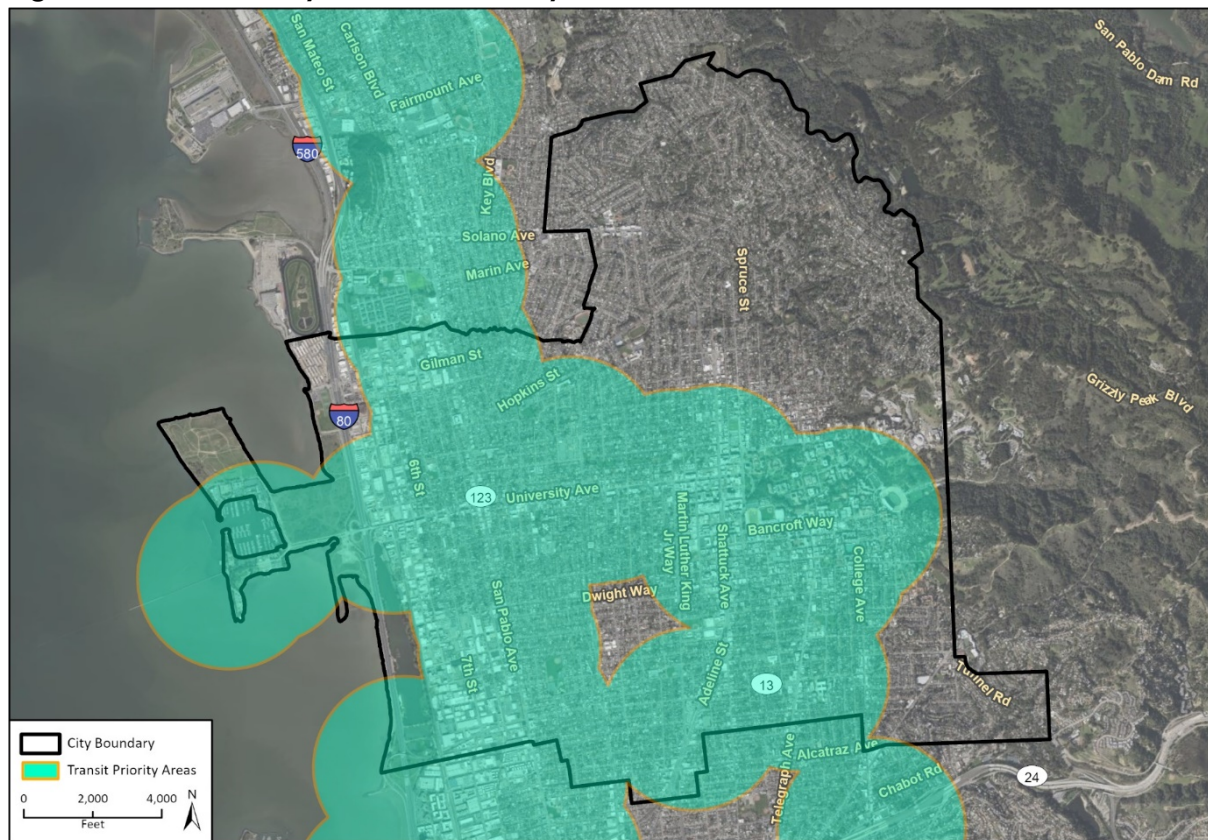
² City of Berkeley 2023-2031 Housing Element Update EIR, pp. 1-5, 1-6.

scenic quality, create a new source of substantial light and glare, or substantially damage scenic resources within a scenic highway. Therefore, aesthetics impacts would be less than significant.

Impacts of the Proposed Project

Senate Bill 743 (California Public Resources Code Section 21099) passed in 2013, made changes to CEQA for projects located in transit-oriented development areas. Among these changes are that a project's aesthetics impacts are no longer considered significant impacts on the environment if the project is a residential, mixed-use residential, or employment center project and if the project is located on an infill site within a transit priority area (TPA). Pursuant to Section 21099 of the California Public Resources Code, a "transit priority area" is defined as an area within 0.5 mile of an existing or planned major transit stop. A "major transit stop" is defined in Section 21064.3 of the California Public Resources Code as a rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods. The majority of the affected zoning districts (R-1, R-1A, R-2, R-2A, and MU-R outside of the Hillside Overlay) are within a TPA, as shown on the Metropolitan Transportation Commission's (MTC) Transit Priority Areas maps (MTC 2021) and Figure 2; for these, impacts would be less than significant by definition, as discussed in the 2023 EIR. Therefore, this discussion pertains to the very limited number of affected parcels outside of TPAs, in limited blocks on the southside, southeast Berkeley and northwest Berkeley.

Figure 2 Transit Priority Areas in Berkeley



City of Berkeley

Middle Housing Zoning and General Plan Amendments

Lot coverage, building heights and setbacks would be modified in the R-1, R-1A, R-2, R-2A, and MU-R outside of the Hillside Overlay to accommodate additional housing types. The main changes that would affect building massing and appearance would include:

- Change to building height limits to a maximum of 35 feet with a reduction to 22 feet within 15 feet of the rear property line, rather than average of 28 feet, in R districts;
- Reducing minimum setbacks;
- Increasing allowable lot coverage from 35-50%, depending on location, to 60% in R districts;
- Changing usable open space requirements from a minimum size to varying with building size

As discussed on page 4.17 of the 2023 EIR, development of individual sites under the proposed amendments would not substantially block public views from roadways in these areas as new buildings would be of a generally similar height as existing development and many of the views that would be affected are already fully or intermittently impeded by mature trees and buildings. Impacts of the proposed project would be below the impacts of the HEU's Middle Housing program, which was analyzed in the 2023 EIR, as the proposed project would implement a reduced program.

Similar to the analysis in the 2023 EIR of citywide Housing Element implementation, there are no State Scenic Highways within the City of Berkeley and no affected parcels are near to or clearly visible from a State Scenic Highway.

As discussed in the 2023 EIR, Berkeley is an urban area as defined by CEQA, so the threshold for visual character is whether the project would conflict with applicable zoning and other regulations governing scenic quality. As the project itself sets zoning standards, development facilitated by the proposed amendments would be consistent with those regulations related to building use, height and massing. The changes, in addition to the potential change in aesthetic character of some new or altered buildings to a more multi-family appearance, would result in an incremental change in visual character on some parcels, especially in the R-1 District, to a more multi-family aesthetic and incrementally greater massing, while preserving the overall collective character through generally maintaining height limits. Future development with two or more units would be required to comply with the City's proposed set of objective development standards. The objective standards will be tailored to streamline middle housing projects by providing a clear and consistent set of review rules and processes. Examples of standards that the City will define include building height, setback distances, and maximum units allowed per acre. This would ensure that future development is compatible with the character and scale of Berkeley according to the City's standards. Impacts of the proposed project would be the same as the impacts of the HEU's Middle Housing program, which was analyzed in the 2023 EIR, as the proposed project would implement the program as envisioned.

Consistent with the analysis in the 2023 EIR, development facilitated by the proposed project would occur as redevelopment of existing built sites or infill development of parcels between existing built sites in existing residential neighborhoods where sources of light and glare already exist. Lighting would likely be congruous with nearby light sources (e.g., lighting from other residential windows). Berkeley's Municipal Code has requirements to reduce the potential for new or substantial sources of light pollution in Berkeley. BMC Sections 23.304.100 and 23.304.130 require that exterior lighting be shielded to avoid light spillover onto adjacent residential properties. Impacts of the proposed project would be the same as the impacts of the HEU's Middle Housing program, which was analyzed in the 2023 EIR, as the proposed project would implement the program as envisioned.

Pursuant to CEQA Statute Section 21099.d, “aesthetic impacts do not include impacts on historical or cultural resources.” Analysis of impacts related to historic or cultural resources is provided below in Section 4.4, *Cultural Resources*.

Effects and Mitigation Measures

The proposed project is within the scope of the HEU covered by the 2023 EIR. The proposed project will not have any new or substantially more severe significant effects related to aesthetics than were identified in the 2023 EIR, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to aesthetics, similar to the 2023 EIR. Furthermore, aesthetics impacts within TPAs, where most of the affected parcels are located, are not considered to be significant effects on the environment. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to aesthetics than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.2 Air Quality

Impacts Identified in the 2023 EIR

As discussed in Section 4.2, *Air Quality*, of the 2023 EIR, analysis of the HEU relied on the 2017 Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines. Construction-related air quality impacts were found to be less than significant with implementation of Berkeley’s Standard Conditions of Approval (COA) related to diesel particulate matter controls during construction, as well as Mitigation Measure AQ-1, which was adopted and incorporated into the HEU and requires adherence to BAAQMD’s Basic Construction Mitigation Measures to reduce fugitive dust impacts. Operational air quality impacts were also found to be less than significant because the VMT associated with HEU buildout would increase by approximately 38 percent, which would not exceed the rate of increase from the forecast population of approximately 43 percent. As discussed in Section 4.2 of the 2023 EIR, because the HEU’s VMT increase would not conflict with the BAAQMD’s CEQA Guidelines operational plan-level significance thresholds for criteria air pollutants, and the HEU would be consistent with control measures within the BAAQMD 2017 Clean Air Plan, impacts related to conflicting or obstructing implementation of an applicable air quality plan would be less than significant.

According to the California Office of Environmental Health Hazard Assessment (OEHHA), construction of individual projects lasting longer than two months or located within 1,000 feet of sensitive receptors could potentially expose nearby sensitive receptors to substantial pollutant concentrations and therefore could result in potentially significant health risk impacts (OEHHA 2015). Future construction that could result from implementation of the HEU could exceed BAAQMD’s thresholds for increased cancer risk of greater than 10.0 in a million and an increased non-cancer risk of greater than 1.0 Hazard Index (Chronic or Acute), and result in potentially significant impacts related to construction toxic air contaminant (TAC) emissions. However, with implementation of Mitigation Measure AQ-2, which was adopted and incorporated into the HEU, construction-related TAC impacts were found to be less than significant. The 2023 EIR determined

City of Berkeley

Middle Housing Zoning and General Plan Amendments

that operation of land uses facilitated by buildout of the HEU would not include sources of TACs such as freeways and high-volume roadways, truck distribution centers, ports, rail yards, refineries, chrome plating facilities, dry cleaners using perchloroethylene, and gasoline dispensing facilities, and also would not include new stationary sources onsite such as emergency diesel generators (BAAQMD 2017). Therefore, the 2023 EIR found less than significant impacts related to operational TACs.

In 2005, CARB issued recommendations to avoid siting new residences within 500 feet of a freeway, urban roads with 100,000 vehicles/day, or rural roads with 50,000 vehicles/day or close to known stationary TAC sources (CARB 2005). BAAQMD's average daily traffic (ADT) threshold is lower, at 10,000 vehicles per day (BAAQMD 2012); therefore, this analysis conservatively uses BAAQMD's ADT threshold. Development consistent with the HEU could place sensitive receptors living in housing within approximately 500 to 1,000 feet of Interstate 580 (I-580) and Interstate 80 (I-80). There is also the potential for development to occur within 500 feet of roadways that have existing traffic volumes of 10,000 vehicles per day or more such as University Avenue, Adeline Street, Telegraph Avenue, Claremont Avenue, and Gilman Street (Caltrans 2020). Therefore, development of those housing sites could create a potentially significant impact by exposing future sensitive receptors to substantial pollutant concentrations. However, implementation of Mitigation Measure AQ-3, which was adopted and incorporated into the HEU, would be required and would reduce impacts to a less than significant level.

The 2023 EIR found that the HEU, including the Middle Housing program, would not generate objectionable odors affecting a substantial number of people during operation since it would not include uses such as wastewater treatment plants, landfills or transfer stations, refineries, composting facilities, confined animal facilities, food manufacturing, smelting plants, or chemical plants. Impacts related to odors would be less than significant.

Impacts of the Proposed Project

The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be within those studied in the 2023 EIR, which includes the Middle Housing program. Therefore, emissions from construction and operation of future development would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to air quality, and no new mitigation measures are required. Berkeley's Standard COA requiring construction BMPs, as referenced in the 2023 EIR, would remain applicable.

Air Quality – Diesel Particulate Matter Controls During Construction. All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with **one** of the following measures:

- A. The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
- An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

Previously adopted 2023 EIR Mitigation Measures AQ-1 through AQ-3, incorporated in the City's Standard COAs, would remain applicable and would continue to be implemented and monitored.

AQ-1 Construction Emissions Reduction Measures

As part of the City's development approval process, the City shall require applicants for future development projects within the project sites to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM₁₀ (Table 8-2, Basic Construction Mitigation Measures Recommended for All Proposed Projects, of the May 2017 BAAQMD CEQA Guidelines), outlined below.

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times a day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacture's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper conditions prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's number shall also be visible to ensure compliance with applicable regulations.

City of Berkeley

Middle Housing Zoning and General Plan Amendments

AQ-2 Construction Health Risk Assessment

For individual projects (excluding ADUs, single-family residences, and duplexes) where construction activities would occur within 1,000 feet of sensitive receptors, would last longer than two months, and would not utilize Tier 4 and/or alternative fuel construction equipment, the project applicant shall prepare a construction health risk assessment (HRA). The HRA shall determine potential risk and compare the risk to the following BAAQMD thresholds:

- Non-compliance with Qualified Community Risk Reduction Plan;
- Increased cancer risk of > 10.0 in a million;
- Increased non-cancer risk of > 1.0 Hazard Index (Chronic or Acute); or
- Ambient PM_{2.5} increase of > 0.3 µg/m³ annual average

If risk exceeds the thresholds, measures such as requiring the use of Tier 4 and/or alternative fuel construction equipment shall be incorporated to reduce the risk to appropriate levels.

AQ-3 TAC Exposure Reduction Building Measures

The following design features shall be incorporated for residential development located within 1,000 feet of I-580/80 or on a lot that fronts on a section of roadway with 10,000 vehicles per day or more in order to reduce exposure of proposed residences to TACs from vehicles and stationary combustion engines (i.e., generators):

1. If the proposed buildings would use operable windows or other sources of infiltration of ambient air, the development shall install a central HVAC system that includes high efficiency particulate filters (HEPA). These types of filters are capable of removing approximately 99.97 percent of the DPM emissions from air introduced into the HVAC system (U.S. EPA 2022). The system may also include a carbon filter to remove other chemical matter. Filtration systems must operate to maintain positive pressure within the building interior to prevent entrainment of outdoor air indoors.
2. If the development limits infiltration through non-operable windows, a suitable ventilation system shall include a ventilation system with filtration specifications equivalent to or better than the following: (1) American Society of Heating, Refrigerating and Air- Conditioning Engineers MERV-13 supply air filters, (2) greater than or equal to one air exchanges per hour of fresh outside filtered air, (3) greater than or equal to four air exchanges per hour recirculation, and (4) less than or equal to 0.25 air exchanges per hour in unfiltered infiltration. These types of filtration methods are capable of removing approximately 90 percent of the DPM emissions from air introduced into the HVAC system.
3. Windows and doors shall be fully weatherproofed with caulking and weather-stripping that is rated to last at least 20 years. Weatherproof should be maintained and replaced by the property owner, as necessary, to ensure functionality for the lifetime of the project.
4. Where appropriate, install passive (drop-in) electrostatic filtering systems, especially those with low air velocities (i.e., 1 mph).
5. Prepare an ongoing maintenance plan for the HVAC and filtration systems, consistent with manufacturers' recommendations.
6. The applicant shall inform occupants regarding the proper use of any installed air filtration system.

Conclusion

The proposed project would have less than significant impacts after mitigation with respect to air quality, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to air quality than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.3 Biological Resources

Impacts Identified in the 2023 EIR

As discussed in Section 4.3, *Biological Resources*, of the 2023 EIR, the HEU did not include development sites on the western boundary of Berkeley, where marine, estuarine, and lacustrine habitats may provide habitats for special-status species and native fish and wildlife, and include mainly sites in the urbanized core of the City. Therefore, the HEU would have less than significant impacts related to riparian habitats and sensitive natural communities, state or federally protected wetlands, and movement of native resident or migratory fish or wildlife species. Nonetheless, trees, shrubs, man-made structures, and the ground surface throughout Berkeley provide suitable nesting substrates for birds protected under the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFGF), and construction activities under the HEU could potentially affect nesting birds if carried out during breeding season. However, with compliance with the City's Standard COA related to avoiding disturbance of nesting birds, impacts were found to be less than significant. As discussed in the 2023 EIR, development facilitated by the HEU would be required to comply with the City's Tree Ordinance (BMC No. 6,509-N.S.), and because there are no adopted habitat conservation plans or natural community conservation plans within the city of Berkeley, the HEU would not conflict with provisions of an adopted Habitat Conservation Plan or Natural Community Conservation Plan.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR, with the exception of parcels in the Hillside Overlay. Ground disturbance would occur in similar areas and building massing would be only incrementally larger and on sites scattered throughout urbanized areas of the city. Therefore, potential impacts to sensitive natural areas or communities, and species habitat or species, would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to biological resources, and no new mitigation measures are required. Berkeley's Standard COA requiring avoiding disturbance of nesting birds, as referenced in the 2023 EIR, would remain applicable.

Avoid Disturbance of Nesting Birds. Initial site disturbance activities, including vegetation and concrete removal, shall be prohibited during the general avian nesting season (February 1 to August 30), if feasible. If nesting season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the

City of Berkeley

Middle Housing Zoning and General Plan Amendments

presence/absence, location, and activity status of any active nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect effects to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFGF), nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation and concrete removal. In the event that active nests are discovered, a suitable buffer (typically a minimum buffer of 50 feet for passerines and a minimum buffer of 250 feet for raptors) shall be established around such active nests and no construction shall be allowed inside the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground-disturbing activities shall occur within this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 31 and January 31.

Conclusion

The proposed project would have less than significant impacts with respect to biological resources, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to biological resources than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.4 Cultural Resources

Impacts Identified in the 2023 EIR

As discussed in Section 4.4, *Cultural Resources*, of the 2023 EIR, the City has adopted regulations related to cultural resources that would apply to development facilitated by the HEU. Pursuant to Chapter 3.24 of the BMC, the City's Landmarks Preservation Commission (LPC) ordinance provides procedures for the local designation of historical resources and includes a provision for a permit review which allows the LPC to review and approve construction, alteration, or demolition of a designated landmark, buildings in designated historic districts, and structures of merit. In addition, pursuant to BMC Section 23.326.070(C), the City requires any application for a use permit or administrative use permit to demolish a non-residential building or structure which is 40 or more years old to be forwarded to the LPC for review before consideration of the permit by the Zoning Adjustments Board. Further, the 2023 EIR explained that the City's zoning project application has submittal requirements for zoning projects that include the proposed demolition or substantial change to any building 40 or more years old subject to environmental review requiring a historical resource evaluation. For projects subject to discretionary review, potential impacts to historical resources would be addressed by following the existing procedures of the City's permit review process, and by adherence to the City's Standard COAs. The BMC requirements and zoning project application submittal requirements are intended to reduce impacts to historical resources by ensuring that proposed changes to buildings do not negatively impact the resource by encouraging the preservation and maintenance of historical materials and ensuring work performed is consistent with the resource's historical character. Nonetheless, the 2023 EIR determined that there is potential for historic resources that have not yet been subject to evaluation or would not be subject

to the City's permit review or zoning application requirements to be adversely impacted, and Mitigation Measure CUL-1 and Mitigation Measure CUL-2, which were adopted and incorporated into the HEU, would be required to reduce impacts to the maximum extent feasible. However, even with implementation of previously-adopted Mitigation Measure CUL-1 and Mitigation Measure CUL-2, existing and eligible historical resources could still be materially impaired by future development that would be facilitated by the HEU because specific actions intended for the reduction of impacts to historical resources could be deemed infeasible. In addition, the 2023 EIR determined that future projects that are not subject to discretionary review and have not been previously evaluated for the presence of historical resources could result in the demolition of potential historic resources. Therefore, impacts to historical resources were found to be significant and unavoidable.

The 2023 EIR found that ground-disturbance of native soils on properties for the purposes of development facilitated by the HEU could contain previously unknown prehistoric or historic-period resources, and individual development projects facilitated by the HEU that would involve ground disturbance activities would have the potential to damage or destroy archaeological resources, especially if they occur below previously disturbed sediments. However, with adherence to the City's Standard COA related to archaeological resources, impacts would be less than significant.

The 2023 EIR also determined that ground-disturbing activities associated with development under the HEU could result in damage to or destruction of human burials. However, compliance with the California Health and Safety Code (Section 7050.5, 7051, and 7054), which has specific provisions for the protection of human burial remains; PRC Section 5097.98, which addresses the disposition of Native American burials, protects such remains, and establishes the Native American Heritage Commission (NAHC) to resolve related disputes; and the City's Standard COA related to human remains; would result in impacts that would be less than significant.

Impacts of the Proposed Project

The affected zoning districts are within those studied for the Middle Housing program in the 2023 EIR. Demolition of buildings and ground disturbance that could encounter archaeological resources or human remains would occur in the same areas of the affected districts and to the same extent as that disclosed in the 2023 EIR. The same regulations, Standard COAs, and 2023 EIR mitigation measures would apply.

Regarding historic resources specifically, Mitigation Measure CUL-2 (which requires a historical resources assessment for projects subject to discretionary review) would not apply to ministerial Middle Housing projects on sites with structures that have not been previously evaluated to initiate a landmark or structure-of-merit designation, because discretionary review would not be required in such cases. However, Mitigation Measure CUL-1 would also assist the City in identifying historic resources independently of individual project applications. Once those resources are identified, the provisions of BMC Chapter 3.24.200 (discussed below) would apply and would reduce impacts to these resources. Moreover, the amendments allowing ministerial approval for certain residential projects are consistent with the Middle Housing program analyzed in the 2023 EIR (which states that the purpose of Middle Housing program is to "facilitate increased development in lower density districts"), and therefore are within those studied in the 2023 EIR.

For sites that are designated historic sites, landmarks or structures of merit, CUL-2 would apply to reduce impacts to historical resources. BMC Chapter 3.24.200 states that "any construction, alteration or demolition for which a permit is required" that is "to be carried out on a designated landmark, in a designated historic district or structure of merit" must be approved by the Landmarks Preservation Board. While a ZC is not a permit, a project approved with a ZC needs to obtain a

City of Berkeley

Middle Housing Zoning and General Plan Amendments

Building Permit, so would be subject to this requirement, if applicable. Thus, even though the project would permit the demolition of a single-family home that is not tenant-occupied with a ZC in certain cases, the project would exempt designated landmarks, structures in designated historic districts, and structures of merit from this streamlined requirement. Such projects would be required to obtain the approval of the Landmarks Preservation Commission for a demolition. Accordingly, the proposed project is consistent with the Middle Housing program analyzed in the 2023 EIR and the mitigation measures adopted therein.

However, although the continued implementation, when applicable, of 2023 EIR mitigation measures CUL-1 and CUL-2 would reduce impacts to historical resources to the maximum extent feasible, existing and eligible historical resources could still be materially impaired by future development that would be facilitated by the proposed project. Material impairment could occur because specific actions intended for the reduction of impacts to historical resources could be determined to be infeasible. Material impairment could also occur because future projects that are not subject to discretionary review on sites with structures that have not been previously evaluated to initiate a landmark or structure-of-merit designation could result in the demolition of potential but unknown historic resources. Although future development would be required to comply with mitigation measures CUL-1 and CUL-2, when applicable, as adopted in the 2023 EIR, similar to the HEU as a whole, impacts would remain significant and unavoidable. Impacts related to historical resources would be consistent with what was evaluated in the 2023 EIR.

Effects and Mitigation Measures

Historical Resources

No new or substantially more severe significant effects would occur to cultural resources, and no new mitigation measures are required. Previously adopted Mitigation Measure CUL-1 and Mitigation Measure CUL-2 would remain applicable and would continue to be implemented and monitored. As stated above, Mitigation Measure CUL-2 would not be applicable to projects that are not subject to discretionary review on sites with structures that have not been previously evaluated to initiate a landmark or structure-of-merit designation. However, this would not be a new impact because it was analyzed in the 2023 EIR, as stated above.

CUL-1 Historic Context Statement, Cultural Resources Survey and Designations

During the period of this Housing Element, the City should conduct a citywide historic context statement and a cultural resource survey to identify historic resources, with priority given to sites in the 2023 EIR Site Inventory, to determine if there are designed built environment features which are over 40 years of age proposed to be altered or demolished. Designation of historic or cultural resources should be conducted by the Landmarks Preservation Commission pursuant to 3.24.260 of the Berkeley Municipal Code.

CUL-2 Historical Resources Discretionary Review

For projects that are subject to discretionary review that occur during the Housing Element period where a historical-age building or structure that has not been previously evaluated is present, a historical resources assessment shall be performed by an architectural historian or historian who meets the Secretary of the Interior Professional Qualification Standards (PQS) in architectural history or history. The qualified architectural historian or historian shall conduct an intensive-level survey in accordance with the California Office of Historic Preservation guidelines to determine if

the property qualifies for federal, state, or local historical resources designation. All age eligible properties shall be evaluated within their historic context and documented in a technical memorandum with Department of Parks and Recreation Series 523 Forms.

Should a property be found to be a qualifying historical resource, the project shall be subject to the City's regulations for permit review, including by the Preservation Landmarks Commission pursuant to Chapter 3.24.260, and/or by the Zoning Adjustments Board pursuant to Chapter 23.326 of the City of Berkeley Municipal Code. Efforts shall be made to the extent feasible to ensure that impacts are mitigated. Application of mitigation shall generally be overseen by a qualified architectural historian or historic architect meeting the PQS, unless unnecessary in the circumstances (e.g., preservation in place). In conjunction with a development application that may affect the historical resource, the historical resources built environment assessment shall also identify and specify the treatment of character-defining features and construction activities.

Efforts shall be made to the greatest extent feasible to ensure that the relocation, rehabilitation, or alteration of the resource is consistent with the Secretary of the Interior's Standards for the Treatments of Historic Properties (Standards). In accordance with CEQA, a project that has been determined to conform with the Standards generally would not cause a significant adverse direct or indirect impact to historical resources (14 CCR § 15126.4(b)(1)). Application of the Standards shall be overseen by a qualified architectural historian or historic architect meeting the PQS. In conjunction with any development application that may affect the historical resource, a report identifying and specifying the treatment of character-defining features and construction activities shall be provided to the City for review and concurrence. As applicable, the report shall demonstrate how the project complies with the Standards and be submitted to the City for review and approval prior to the issuance of permits.

If significant historical resources are identified on a development site and compliance with the Standards and or avoidance is not possible, appropriate site-specific mitigation measures shall be established and undertaken. These may include documentation of the resource in a manner consistent with the standards of the Historic American Building Survey (HABS). Documentation should include full descriptive and historical narrative, measured drawings, and medium format photographs, all in archivally stable format.

Archaeological Resources and Human Remains

No new or substantially significant effects to archaeological resources or human remains were identified and no new mitigation measures are required. Berkeley's Standard COAs, as referenced in the 2023 EIR, would remain applicable and would reduce impacts to archaeological resources and human remains.

Archaeological Resources (Ongoing throughout demolition, grading, and/or construction).

Pursuant to CEQA Guidelines Section 15064.5(f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore:

- A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project applicant and/or lead agency shall consult with a qualified archaeologist, historian or paleontologist to assess the significance of the find.
- B. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified professional would meet to determine the appropriate

City of Berkeley

Middle Housing Zoning and General Plan Amendments

avoidance measures or other appropriate measure, with the ultimate determination to be made by the City of Berkeley. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and/or a report prepared by the qualified professional according to current professional standards.

- C. In considering any suggested measure proposed by the qualified professional, the project applicant shall determine whether avoidance is necessary or feasible in light of factors such as the uniqueness of the find, project design, costs, and other considerations.
- D. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while mitigation measures for cultural resources is carried out.
- E. If significant materials are recovered, the qualified professional shall prepare a report on the findings for submittal to the Northwest Information Center.

Human Remains (Ongoing throughout demolition, grading, and/or construction). In the event that human skeletal remains are uncovered during ground-disturbing activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and following the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius of the find until appropriate arrangements are made. If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities. Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

Conclusion*Historical Resources*

Previously adopted Mitigation Measure CUL-1 and Mitigation Measure CUL-2 would remain applicable to the proposed project, although, as discussed in the 2023 EIR, Mitigation Measure CUL-2 would not apply to ministerial Middle Housing projects on sites with structures that have not been previously evaluated to initiate a landmark or structure-of-merit designation. Even with implementation of these mitigation measures, impacts to cultural resources would remain significant and unavoidable, similar to the adopted HEU. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to historical resources than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

Archaeological Resources and Human Remains

The proposed project would have less than significant impacts with respect to archaeological resources and human remains, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to archaeological resources or human remains than were identified in the 2023 EIR. None of

the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.5 Energy

Impacts Identified in the 2023 EIR

As discussed in Section 4.5, *Energy*, of the 2023 EIR, construction facilitated by the HEU would involve temporary energy use. During construction, contractors would be required to comply with the provisions of California Code of Regulations Title 13 Sections 2449 and 2485, which prohibit diesel-fueled commercial motor vehicles and off-road diesel vehicles from idling for more than 5 minutes and would minimize unnecessary fuel consumption. Construction equipment would be subject to the United States Environmental Protection Agency's (USEPA) Construction Equipment Fuel Efficiency Standard, which would also minimize inefficient, wasteful, or unnecessary fuel consumption. The HEU would also be required to comply with standards and regulations such as 2019 CALGreen (as codified in CCR Title 24, Part 11) and BMC Chapter 19.37, which would ensure energy is used efficiently during construction.

Development under the HEU would be required to comply with standards set in California Building Code (CBC) Title 24, which would minimize the wasteful, inefficient, or unnecessary consumption of energy resources during operation. California's CALGreen standards (California Code of Regulations, Title 24, Part 11) and BMC Chapters 12.80, 19.36, and 19.36 would require implementation of energy-efficient light fixtures and building materials into the design of new construction projects, limit the use of natural gas infrastructure in new development, and provide for electric-ready infrastructure for natural gas appliances in new buildings. The HEU would facilitate development along transit corridors, near BART stations, and in Priority Development Areas (PDA), which would place residents in proximity to public transit and encourage walking and bicycling. BMC Chapter 19.37 would require at least 20 percent of parking spaces at new multi-family residential developments to be capable of supporting electric vehicle chargers and raceway at the remaining 80 percent of parking spaces to facilitate future electric vehicle supply equipment, which would support the use of electric vehicles by future residents.

In addition, the HEU would be consistent with state renewable energy and energy efficiency plans as well as the City's General Plan policies related to energy. Impacts of the HEU would be less than significant.

Impacts of the Proposed Project

The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be below what was anticipated and evaluated in the 2023 EIR for the Middle Housing program. Therefore, energy use from construction or operation would be consistent with estimates disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects related to energy would occur, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to energy, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to energy than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.6 Geology and Soils

Impacts Identified in the 2023 EIR

As discussed in Section 4.6, *Geology and Soils*, of the 2023 EIR, the HEU would facilitate development in areas near the Hayward fault, which would increase the population and infrastructure that would be exposed to earthquake-related hazards. However, with compliance with applicable State and local laws such as the Alquist-Priolo Earthquake Fault Zone Act and Title 19, Chapter 28 of the BMC, impacts would be less than significant. The 2023 EIR determined that the HEU would be located in areas with “low” to “moderate” liquefaction potential and low landslide risk, and impacts were found to be less than significant. The 2023 EIR also determined that although unstable soils within Berkeley have the potential to damage infrastructure or introduce hazards to human health and safety, the City requires site-specific geotechnical evaluations for individual development on steep slopes and unstable soils in accordance with the California Building Code (CBC), and development under the HEU would be required to comply with the Policies S-13A and S-14B of the City’s General Plan Disaster Preparedness and Safety Element. Impacts related to unstable soils were found to be less than significant.

The 2023 EIR found that Berkeley’s soils are characterized by having “moderate” or a “high” potential for erosion-related hazards, and construction activities could result in erosion and the loss of topsoil. However, new development under the HEU would be required to comply with the SWRCB’s General Permit for Discharges of Stormwater Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ). Construction activities that disturb one or more acres of land surface are subject to the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2012-0006-DWQ) adopted by the SWRCB. Development would also be required to comply with BMC Chapter 21, Section 40, which requires compliance with the Construction General Permit, as well as BMC Section 21.40.270 requires subdivision projects to comply with grading, erosion and sediment control regulations on file with the Public Works Department. Therefore, impacts related to soil erosion or the loss of topsoil were found to be less than significant.

As discussed in Section 4.6 of the 2023 EIR, many of the soil types within Berkeley have “moderate” to “high” potential for shrink-swell behavior, or expansiveness. Building on unsuitable soils would have the potential to create future subsidence or collapse issues that could result in the settlement of proposed project infrastructure, and/or the disruption of utility lines and other services. Development facilitated by the HEU would be required to comply with existing State and local regulations, such as the CBC and General Plan Action S-14B, which would require submittal to and review by the City of detailed soils and/or geologic reports prior to construction. Impacts were found to be less than significant.

The 2023 EIR found that construction activities related to the HEU would potentially result in significant impacts to paleontological resources. However, implementation of Mitigation Measure GEO-1, which was adopted and incorporated into the HEU, would reduce impacts to a less than significant level.

The 2023 EIR found no impacts related to requiring septic tanks or alternative wastewater disposal systems.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR. Ground disturbance would occur in similar areas, depth of excavation would be similar, location and density of housing would be similar, and the same policies, regulations and standard conditions of approval would apply. Therefore, potential impacts geologic hazards, soils and paleontological resources would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to geology and soils, and no new mitigation measures are required. Previously adopted 2023 EIR Mitigation Measure GEO-1, incorporated in the City's Standard COAs, would remain applicable and would continue to be implemented and monitored.

GEO-1 Protection of Paleontological Resources

If ground disturbance below the level of prior disturbance and into native soils is proposed to occur in areas mapped as Pleistocene alluvial fan and fluvial deposits (Qpaf), Orinda Formation (Tor), or Knoxville Formation (Kjk), then the City shall require the following to be implemented:

- **Retention of Qualified Professional Paleontologist.** Prior to initial ground disturbance, the project applicant shall retain a Qualified Professional Paleontologist, as defined by Society of Vertebrate Paleontology (SVP) (2010), to determine the project's potential to significantly impact paleontological resources according to SVP (2010) standards.
If underlying formations are found to have a high potential for paleontological resources, the Qualified Professional Paleontologist shall create a Paleontological Mitigation and Monitoring Program, which will be approved by the City and contain the following elements:
- **Paleontological Worker Environmental Awareness Program (WEAP).** Prior to the start of construction, the Qualified Professional Paleontologist or their designee shall conduct a paleontological Worker Environmental Awareness Program (WEAP) training for construction personnel regarding the appearance of fossils and procedures for notifying paleontological staff should fossils be discovered by construction staff.
- **Paleontological Monitoring.** Full-time paleontological monitoring shall be conducted during ground disturbing construction activities (i.e., grading, trenching, foundation work) in sediments assigned a high paleontological sensitivity. Paleontological monitoring shall be conducted by a qualified Paleontological Resources Monitor, as defined by the SVP (2010). The duration and timing of the monitoring will be determined by the Qualified Professional Paleontologist based on the observation of the geologic setting from initial ground disturbance, and subject to the review and approval by the City. If the Qualified Professional Paleontologist determines that full-time monitoring is no longer warranted, based on the specific geologic conditions once the

City of Berkeley

Middle Housing Zoning and General Plan Amendments

full depth of excavations has been reached, they may recommend that monitoring be reduced to periodic spot-checking or ceased entirely. Monitoring shall be reinstated if any new ground disturbances are required, and reduction or suspension shall be reconsidered by the Qualified Professional Paleontologist at that time. In the event of a fossil discovery by the paleontological monitor or construction personnel, all work in the immediate vicinity of the find shall cease. A Qualified Professional Paleontologist shall evaluate the find before restarting construction activity in the area. If it is determined that the fossil(s) is (are) scientifically significant, the Qualified Professional Paleontologist shall complete the following conditions to mitigate impacts to significant fossil resources.

Upon completion of ground disturbing activity (and curation of fossils if necessary) the Qualified Professional Paleontologist shall prepare a final report describing the results of the paleontological monitoring efforts associated with the project. The report shall include a summary of the field and laboratory methods, an overview of the project geology and paleontology, a list of taxa recovered (if any), an analysis of fossils recovered (if any) and their scientific significance, and recommendations. The report shall be submitted to the City. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.

Conclusion

The proposed project would have less than significant impacts with respect to geology and soils, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to geology and soils than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.7 Greenhouse Gas Emissions

Impacts Identified in the 2023 EIR

As discussed in Section 4.7, *Greenhouse Gas Emissions*, of the 2023 EIR, full buildout of the HEU would generate 81,985 MT of CO₂e per year, equating to an increase of 1.7 MT of CO₂e per service population per year. As analyzed in the 2023 EIR, the HEU's greenhouse gas (GHG) emissions of 1.7 MT of CO₂e per service population per year would not exceed the BAAQMD's interpolated 2031 target of 3.7 MT CO₂e per service population at the plan-level³ (refer below to the "Impacts of the Proposed Project" section for interpolation methodology). Therefore, impacts related to GHG emissions were found to be less than significant.

The 2023 EIR found that the HEU would be consistent with GHG reduction goals and policies in the 2017 Scoping Plan, Plan Bay Area 2050, the City's General Plan, and the City's Climate Action Plan

³ BAAQMD developed plan-level thresholds of significance to assist lead agencies with determining significance for long-range local and regional plans. Local long-range plans are discretionary, program-level planning activities, such as general plans and general plan elements, specific plans, area plans, community plans, congestion management plans, and annexations of lands and service areas. The proposed project involves Zoning Ordinance and General Plan amendments to facilitate housing in the Southside Area. Plan-level thresholds are used instead of project-level thresholds because the proposed project constitutes as a programmatic document and applies to the Southside Area.

(CAP). Therefore, 2013 EIR determined that the HEU would have less than significant impacts related to conflicting with an applicable GHG reduction plan.

Impacts of the Proposed Project

The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be below those studied in the 2023 EIR for the Middle Housing program because the Hillside Overlay is excluded from the proposed project. Therefore, emissions from construction and operation (vehicle trips and building sources) of future development would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects related to GHG emissions would occur and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to GHG emissions, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to GHG emissions than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.8 Hazards and Hazardous Materials

Impacts Identified in the 2023 EIR

As discussed in Section 4.8, *Hazards and Hazardous Materials*, of the 2023 EIR, construction of development facilitated by the HEU could result in an increase in the overall routine, transport, use, and disposal of hazardous materials in Berkeley. However, hazardous materials would be required to be transported under U.S. Department of Transportation (DOT) regulations (U.S. DOT Hazardous Materials Transport Act, 49 Code of Federal Regulations). The California Department of Toxic Substances Control (DTSC) also regulates hazardous wastes under the authority of Resource Conservation and Recovery Act (RCRA) and in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Divisions 4 and 4.5). The 2023 EIR found that portions of Berkeley are located in Environmental Management Areas (EMA) as identified by the City's Toxics Management Division (TMD).⁴ As a Certified Unified Program Agency (CUPA) for the City of Berkeley, the TMD is responsible for identifying areas known or suspected to have groundwater contamination that could result in potential health and environmental impacts, and development in the EMA would require project review by the TMD prior to issuance of permits. Future development projects facilitated by the HEU would be subject to the City's Standard COA related to Environmental Site Assessments, Soil and Groundwater Management Plans, Building

⁴ EMAs can be located using the City's Environment GIS portal:
<https://berkeley.maps.arcgis.com/apps/webappviewer/index.html?id=2c7dfafbb1f64e159f4fdf28a52f51c6&showLayers=Berkeley%20Parcels;Environment>.

City of Berkeley

Middle Housing Zoning and General Plan Amendments

Materials Surveys, and Hazardous Materials Business Plans, which would reduce impacts to a less than significant level.

The 2023 EIR determined that operation of the HEU would not risk exposing the public to hazardous materials because residential uses do not typically use hazardous materials other than small amounts for cleaning and landscaping. Although the HEU would increase the number of residents near transportation corridors where hazardous materials may be routinely transported, as discussed above the transportation of hazardous materials is regulated by the DOT. Additionally, since the HEU would facilitate residential development within areas of Berkeley where hazardous materials could be stored or used, such as near mixed-use or industrial areas, the potential of residents being exposed to hazardous materials may be increased. However, future development would be required to adhere to the California Accidental Release Prevention (CAL ARP) program as required by the California Environmental Protection Agency (Cal EPA) (Cal EPA 2023), develop a Hazardous Materials Business Plan enforced by Berkeley's TMD (City of Berkeley 2023b), and adhere to the Local Hazard Mitigation Plan (LHMP) established by Alameda County and the City of Berkeley (City of Berkeley 2019), which aim to minimize community exposure to hazardous and potentially hazardous materials by avoiding toxic cleaning and building materials and products in civic facilities and services; providing information, opportunities, and incentives to the community for proper disposal of toxic materials; encouraging non-toxic materials and products in homes and businesses as an alternative to products containing potentially hazardous materials; and providing procedures to follow in the event of a spill. Compliance with these policies would further prepare the City, reduce the risk of spills, and protect the public in the event of an accidental spill or exposure. Future development would also be required to comply with policies and programs in the Disaster Preparedness and Safety Element, Environmental Management Element, and the Housing Element of the City's General Plan such as Policies S-15, EM-12, EM-13, and EM-15, as well as Housing Element Programs 16, 21, 22, and 25, impacts would be less than significant.

The 2023 EIR determined that although 122 housing inventory sites listed in the HEU would be located within a 0.25-mile radius of Berkeley's existing schools and childcare facilities, impacts related to the accidental release of hazardous materials and exposure to these materials would be less than significant with adherence to the above-referenced State and local laws, regulations and plans. The 2023 EIR stated that Berkeley has 361 documented sites containing or potentially containing hazardous materials contamination in underlying soil and/or groundwater that have not received regulatory closure. Development facilitated by the HEU could involve ground disturbance on sites where soil, soil vapor, or groundwater contamination is present such that hazardous materials are released, exposing construction workforce and nearby occupants to hazardous materials. However, development near hazardous locations would be preceded by investigation, remediation (cleanup), and monitoring, as necessary, under the supervision of the City's TMD, RWQCB, or DTSC before construction activities begin. Furthermore, if an unidentified underground storage tank (UST) is uncovered or disturbed during construction, it would be removed under permit, and potential risks due to residual contamination would be minimized by managing the site according to existing standards contained in Division 20, Chapters 6.7 and 6.75 (Underground Storage Tank Program) of the California Health and Safety Code as enforced and monitored by the City's TMD. Similarly, if groundwater contamination is identified, characterization of the vertical and lateral extent of the contamination and remediation activities would be required by the RWQCB prior to the commencement of new construction activities that would disturb the subsurface. If contamination exceeds regulatory action levels, the developer would be required to undertake remediation prior to grading and development under the supervision of the RWQCB, depending upon the nature of identified contamination to levels that do not pose an unacceptable risk for the

intended land use. Therefore, impacts related to hazardous materials sites would be less than significant.

Development facilitated by the HEU also would be required to comply with Policy T-28 of the City's General Plan which identifies actions for emergency access. Development would also be required to conform to the latest Fire Code requirements, including provisions for emergency access. Because there are no public or private airports within Berkeley, the 2023 EIR determined that the HEU would not result in impacts related to a safety hazard or excessive noise hazards within airport land use plan areas or in proximity to airports.

Impacts of the Proposed Project

The proposed amendments would affect the same zoning districts and parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR. Ground disturbance associated with development of new residential units would occur in the same areas as studied in the 2023 EIR on sites scattered throughout urbanized areas of the city. The same existing regulations and standard conditions of approval would apply. Potential impacts related to hazardous materials use, contaminated sites, and risk of release would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur related to hazards and hazardous materials, and no new mitigation measures are required. Berkeley's Standard COA requiring contacting the TMD and determining if Environmental Site Assessments, Soil and Groundwater Management Plans, Building Materials Surveys, and Hazardous Materials Business Plans, as referenced in the 2023 EIR, would remain applicable.

Toxics. The applicant shall contact the Toxics Management Division (TMD) to determine which of the following documents are required and timing for their submittal:

A. Environmental Site Assessments

1. Phase I & Phase II Environmental Site Assessments (latest ASTM 1527-13). A recent Phase I ESA (less than 6 months old*) shall be submitted to TMD for developments for:
 - All new commercial, industrial and mixed-use developments and all large improvement projects.
 - All new residential buildings with 5 or more dwelling units located in the Environmental Management Area (or EMA).
 - EMA is available online at:
http://www.cityofberkeley.info/uploadedFiles/IT/Level_3_-_General/ema.pdf
2. Phase II ESA is required to evaluate Recognized Environmental Conditions (REC) identified in the Phase I or other RECs identified by TMD staff. The TMD may require a third party toxicologist to review human or ecological health risks that may be identified. The applicant may apply to the appropriate state, regional or county cleanup agency to evaluate the risks.
3. If the Phase I is over 6 months old, it will require a new site reconnaissance and interviews. If the facility was subject to regulation under Title 15 of the Berkeley Municipal Code since the last Phase I was conducted, a new records review must be performed.

B. Soil and Groundwater Management Plan

1. A Soil and Groundwater Management Plan (SGMP) shall be submitted to TMD for all non-residential projects, and residential or mixed-use projects with five or more dwelling units, that: (1) are in the Environmental Management Area (EMA) and (2) propose any excavations deeper than 5 feet below grade. The SGMP shall be site specific and identify procedures for soil and groundwater management including identification of pollutants and disposal methods. The SGMP will identify permits required and comply with all applicable local, state and regional requirements.
2. The SGMP shall require notification to TMD of any hazardous materials found in soils and groundwater during development. The SGMP will provide guidance on managing odors during excavation. The SGMP will provide the name and phone number of the individual responsible for implementing the SGMP and post the name and phone number for the person responding to community questions and complaints.
3. TMD may impose additional conditions as deemed necessary. All requirements of the approved SGMP shall be deemed conditions of approval of this Use Permit.

C. Building Materials Survey

1. Prior to approving any permit for partial or complete demolition and renovation activities involving the removal of 20 square or lineal feet of interior or exterior walls, a building materials survey shall be conducted by a qualified professional. The survey shall include, but not be limited to, identification of any lead-based paint, asbestos, polychlorinated biphenyl (PBC) containing equipment, hydraulic fluids in elevators or lifts, refrigeration systems, treated wood and mercury containing devices (including fluorescent light bulbs and mercury switches). The Survey shall include plans on hazardous waste or hazardous materials removal, reuse or disposal procedures to be implemented that fully comply with state hazardous waste generator requirements (22 California Code of Regulations 66260 et seq). The Survey becomes a condition of any building or demolition permit for the project. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center.

D. Hazardous Materials Business Plan

1. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 shall be submitted electronically at <http://cers.calepa.ca.gov/> within 30 days if on-site hazardous materials exceed BMC 15.20.040. HMBP requirement can be found at <http://ci.berkeley.ca.us/hmr/>

Conclusion

The proposed project would have less than significant impacts with respect to hazards and hazardous materials, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to hazards and hazardous materials than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.9 Hydrology and Water Quality

Impacts Identified in the 2023 EIR

As discussed in Section 4.9, *Hydrology and Water Quality*, of the 2023 EIR, construction activities could cause soil erosion from exposed soil, and accidental release of hazardous materials used for equipment such as vehicle fuels and lubricant, or temporary siltation from storm water runoff. However, future development facilitated by the HEU would be required to comply with State and local water quality regulations designed to control erosion and protect water quality during construction, such as requirements of the SWRCB Construction General Permit (CGP), which requires preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP) and BMPs for projects that disturb one acre or more of land. Should dewatering be necessary during construction, development projects would be subject to the San Francisco Bay Regional Water Quality Control Board Order No. R2-2012-0060, General Waste Discharge Requirements for Discharge or Reuse of Extracted Brackish Groundwater, Reverse Osmosis Concentrate Resulting from Treated Brackish Groundwater, and Extracted Groundwater from Structural Dewatering Requiring Treatment (Groundwater General Permit). Development would also be required to comply with BMC Chapters 17.20 and 21.40, which would reduce construction-related water quality impacts to a less than significant level.

Development under the HEU, including development resulting from the Middle Housing program, would also be required to comply with the BMC and the Municipal Regional Stormwater NPDES Permit (No. CAS612008). Development design would include BMPs to avoid adverse effects associated with stormwater runoff quality. The 2023 EIR stated that development would also be required to implement LID Measures and on-site infiltration, as required under the C.3 provisions of the Municipal Regional Stormwater Permit (MRP). Provision C.3 requires projects that create and/or replace between 2,500 square feet and 10,000 square feet of impervious surface to install at least one of a menu of site-specific design measures to either redirect runoff into vegetated areas or to include design site features with permeable surfaces.

In addition to Provision C.3, development would also be required to comply with Provisions C.6 (Construction Site Control), C.10 (Trash Load Reduction), and C.15 (Exempted Discharges) of the MRP, which would reduce operational water quality impacts to a less than significant level.

Similarly, with adherence to the NPDES Construction General Permit, NPDES MS4 General Permit, MRP, the Alameda County Clean Water Program, and the BMC, the 2023 EIR found that development facilitated by the HEU would not substantially alter the existing drainage pattern of the site or area or alter the course of a stream or river, not result in erosion or siltation, and not substantially increase the rate of surface runoff in a manner which would result in flooding on- or off-site or exceed capacity of a stormwater system. Impacts were found to be less than significant.

The 2023 EIR determined that development facilitated by the HEU would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table. Compliance with the above-mentioned regulations would increase the potential for groundwater recharge, resulting in less than significant impacts to groundwater.

The 2023 EIR noted that development facilitated by the HEU would be subject to the following provisions within the BMC:

Middle Housing Zoning and General Plan Amendments

- **Preservation and Restoration of Natural Watercourses – Chapter 17.08.** The purpose of this chapter is to regulate: (1) building over or near culverted creeks; (2) building near open creeks; (3) the rehabilitation and restoration of natural waterways; and (4) the management of watersheds.
- **Stormwater Management and Discharge Control – Chapter 17.20.** This chapter provides the stormwater requirements for projects conducted within the City of Berkeley and is consistent with the requirements of the San Francisco RWQCB and the MRP permit. The purpose of this chapter is to ensure the health, safety, and general welfare of the City of Berkeley's citizens by eliminating non-stormwater discharges to the City's storm drain system and by reducing the contamination of stormwater by pollutants to the maximum extent practicable.
- **Standards of Construction in Special Flood Hazard Zones – Chapter 17.12.** The ordinance also ensures that property owners construct new and substantially improved buildings in the 100-year floodplain in accordance with the National Flood Insurance Program's goals to protect life and property. Section 500 of this chapter addresses standards of construction in special flood hazard areas. Section 530 addresses coastal high hazard areas vulnerable to future sea level rise.
- **Grading, erosion and sediment control requirements – Section 21.40.270.** This requires projects to comply with all grading, erosion and sediment control regulations on file in the Public Works Department.

As discussed in Section 4.9 of the 2023 EIR, there are a few FEMA-designated 100-year Flood Hazard Areas throughout the city, particularly in the western portion of the city. However, development in Flood Hazard Areas would be required to comply with Chapter 17.12 of the BMC, which contains standards for construction in flood zones, as well as Policies S-26, S-27, and S-28 of the Berkeley General Plan, which would reduce impacts to a less than significant level.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR. Construction, ground disturbance and new residential units would occur in the same areas as studied in the 2023 EIR, with the exception of the Hillside Overlay, on sites scattered throughout urbanized areas of the city. It is anticipated that the proposed zoning changes, which expand developable area within a lot and encourage larger residential development projects, would typically create and/or replace at least 2,500 square feet of impervious surface. Staff anticipates, given the built-out character of the R-1, R-2, R-2A and MU-R zones, that middle housing projects would primarily consist of redevelopment of already urbanized parcels which include impervious surfaces, not development on vacant greenfield parcels. Changes in impermeable surfaces would be the same as analyzed in the 2023 EIR; although the additional allowable lot coverage and smaller setbacks may result in an incrementally greater coverage on small, scattered sites, these would not individually or in combination be extensive enough to affect drainage patterns, substantially increase runoff, or decrease water quality or groundwater recharge, and the same existing regulations and Standard COAs would apply. Potential impacts related to hydrology and water quality would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur related to hydrology and water quality, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to hydrology and water quality, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to hydrology and water quality than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.10 Land Use and Planning

Impacts Identified in the 2023 EIR

As discussed in Section 4.10, *Land Use and Planning*, of the 2023 EIR, the HEU would have no impact regarding division of an established community because the HEU includes policies and programs to encourage housing development on underutilized and vacant sites and along established commercial corridors and neighborhoods. The HEU was determined to be consistent with the goals and strategies of Plan Bay Area 2050, as well as policies in the City's General Plan and the BMC. As stated in Government Code Section 65589.5(a), the Legislature has concluded that "the lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California." The HEU establishes policies and programs to further the goal of meeting the existing and projected housing needs of all household income levels of the community. In addition, the sites inventory provides evidence of the City's ability to accommodate the RHNA through the year 2031, as established by the Association of Bay Area Governments (ABAG), as well as efficiently utilize vacant, underutilized, and underdeveloped lots within the City to increase the supply of housing. Impacts were found to be less than significant.

Impacts of the Proposed Project

The proposed project would include Zoning Ordinance amendments and associated General Plan text amendments to implement the Middle Housing program as envisioned in the 2023-2031 Housing Element. The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR. The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be within those studied in the 2023 EIR for the Middle Housing program. The proposed amendments implement the City's Housing Element and would therefore be consistent with the Housing Element, which included the proposed project, and with the City's General Plan. Impacts related to land use would be the same as for the program studied in the 2023 EIR and would be less than significant.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur related to land use and planning, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to land use and planning, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to land use and planning than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.11 Noise

Impacts Identified in the 2023 EIR

According to the Berkeley General Plan Environmental Management Element, noise-sensitive uses include but are not limited to residences, child-care centers, hospitals, and nursing homes (City of Berkeley 2001). As discussed in Section 4.11, *Noise*, of the 2023 EIR, the HEU could expose noise-sensitive receptors to combined noise levels from construction equipment of 84 dBA Leq at 50 feet without a pile driver, and 95 dBA Leq at 50 feet with a pile driver. Development facilitated by the HEU would be required to comply with the City's Standard COAs related to construction hours, construction noise reduction, construction noise management, and noise reduction plans. Nonetheless, construction noise levels could still exceed the City's standards for stationary equipment in both multi-family residential and commercial zones and could still exceed the City's standards at multiple sites. Therefore, construction noise impacts were found to be significant and unavoidable.

Operation of projects facilitated by the HEU would include mechanical equipment such as heating, ventilation, and air conditioning (HVAC) equipment, delivery and trash trucks, and other noise-generating activities. However, such activities would be similar to the existing noise environment, and development would be required to comply with Section 13.40.070 of the BMC, which states that stationary machines and other devices located on the exterior of structures which generate sounds perceptible outside the perimeters of the lot on which the machine or other device is located must be installed with such sound transmission control measures to adequately minimize or eliminate the transmission of the sound to a level not to exceed 60 dBA on weekdays and 50 dBA on weekends for single family residential beyond property perimeters; Section 23130 of the California Motor Vehicle Code which establishes maximum sound levels of 86 dBA L_{eq} at 50 feet for trucks operating at speeds less than 35 miles per hour; Section 13.40.070 of the BMC which prohibits operating or permitting the operation of a mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool before 7:00 a.m. on a weekday (or before 9:00 a.m. on a weekend or holiday) or after 7:00 p.m. on a weekday (or after 8:00 p.m. on a weekend or holiday) such that the sound therefrom across a residential or commercial real property line violates BMC Section 13.40.050 or 13.40.060; and Section 19.29 of the BMC which includes the 2019 California Residential Code, as adopted in Title 24 Part 2.5 of the California Code of Regulations, which would reduce operational noise impacts to a less than significant level. As discussed in the 2023 EIR, daily VMT from the HEU would increase by approximately 6 percent over existing 2020 conditions by the year 2031. A 6 percent increase in traffic on a roadway would equate to an increase in noise of 0.2 dBA, which would not double the existing mobile noise source and would not increase noise levels by even the most conservative threshold of 3 dBA, which is considered a barely perceptible noise increase. Off-site traffic noise impacts were therefore found to be less than significant.

The 2023 EIR found that construction activities related to development facilitated by the HEU would not result in significant vibration impacts with adherence to the City's Standard COA related to construction vibration. The 2023 EIR also found that groundborne vibration in the vicinity of development facilitated by the HEU would be primarily generated by vehicular travel on the local roadways. However, the HEU would not increase traffic trips such that it would be perceptible to nearby noise-sensitive receptors, and impacts would be less than significant.

As discussed in 2023 EIR Section 4.11, development facilitated by the HEU would not be exposed to intermittent noise levels from overhead flight patterns from airports in the city, because there are none located within Berkeley. In addition, residential development would be required to incorporate noise insulation features consistent with achieving State and local standards to reduce interior noise levels to below 45 dBA. Therefore, impacts would be less than significant.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR, with the exception of parcels in the Hillside Overlay. The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be within those studied in the 2023 EIR for the Middle Housing program. The same regulations and Standard COAs would apply to development under the proposed amendments. Impacts related to noise would be the same as for the program studied in the 2023 EIR and would be significant and unavoidable.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur related to noise and vibration, and no new mitigation measures are required. Berkeley's Standard COAs related to construction hours, construction noise reduction, construction noise management, noise reduction plans, and construction vibration, as referenced in the 2023 EIR, would remain applicable.

Construction Hours (Residential Zoning Districts). Construction activity shall be limited to between the hours of 8:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and Noon on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

Construction Hours (Non-Residential Zoning Districts). Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.

Construction Noise Reduction Program. The applicant shall develop a site specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible, subject to review and approval of the Zoning Officer. The noise reduction program shall include the time limits for construction listed above, as measures needed to ensure that construction complies with BMC Section 13.40.070. The noise reduction program should include, but shall not be limited to, the following available controls to reduce construction noise levels as low as practical:

- A. Construction equipment should be well maintained and used judiciously to be as quiet as practical.

Middle Housing Zoning and General Plan Amendments

- B. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
- C. Utilize “quiet” models of air compressors and other stationary noise sources where technology exists. Select hydraulically or electrically powered equipment and avoid pneumatically powered equipment where feasible.
- D. Locate stationary noise-generating equipment as far as possible from sensitive receptors when adjoining construction sites. Construct temporary noise barriers or partial enclosures to acoustically shield such equipment where feasible.
- E. Prohibit unnecessary idling of internal combustion engines.
- F. If impact pile driving is required, pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
- G. Construct solid plywood fences around construction sites adjacent to operational business, residences or other noise-sensitive land uses where the noise control plan analysis determines that a barrier would be effective at reducing noise.
- H. Erect temporary noise control blanket barriers, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.

Construction Noise Management – Public Notice Required. At least two weeks prior to initiating any construction activities at the site, the applicant shall provide notice to businesses and residents within **500 feet** of the project site. This notice shall at a minimum provide the following: (1) project description, (2) description of construction activities, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name and phone number of the Project Liaison for the project that is responsible for responding to any local complaints, (5) commitment to notify neighbors at least four days in advance of authorized extended work hours and the reason for extended hours, and (6) that construction work is about to commence. The liaison would determine the cause of all construction-related complaints (e.g., starting too early, bad muffler, worker parking, etc.) and institute reasonable measures to correct the problem. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.

Noise Reduction Plan. Applicants are required to develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction noise impacts to the maximum extent feasible. The noise reduction program would include several elements that would reduce the exposure of sensitive receptors to construction noise, such as the following:

- Equipping all internal combustion engine-driven equipment with mufflers in good condition
- Pre-drilling foundation pile holes to minimize the use of pile drivers
- Installing solid plywood fences around construction sites adjacent to sensitive receptors
- Erecting temporary noise control blanket barriers along building façades facing construction sites.

Damage Due to Construction Vibration. The project applicant shall submit screening level analysis prior to, or concurrent with demolition building permit. If a screening level analysis shows that the project has the potential to result in damage to structures, a structural engineer or other appropriate professional shall be retained to prepare a vibration impact assessment (assessment). The assessment shall take into account project specific information such as the composition of the structures, location of the various types of equipment used during each phase of the project, as well as the soil characteristics in the project area, in order to determine whether project construction may cause damage to any of the structures identified as potentially impacted in the screening level analysis. If the assessment finds that the project may cause damage to nearby structures, the structural engineer or other appropriate professional shall recommend design means and methods of construction that avoid the potential damage, if feasible. The assessment and its recommendations shall be reviewed and approved by the Building and Safety Division and the Zoning Officer. If there are no feasible design means or methods to eliminate the potential for damage, the structural engineer or other appropriate professional shall undertake an existing conditions study (study) of any structures (or, in case of large buildings, of the portions of the structures) that may experience damage. This study shall establish the baseline condition of these structures, including, but not limited to, the location and extent of any visible cracks or spalls; and include written descriptions and photographs.

Conclusion

The City's Standard Conditions of Approval for construction noise reduction and management and BMC requirements would still be applicable to development under the proposed project. However, even with implementation of these conditions, impacts related to construction noise would remain significant and unavoidable, similar to the HEU. Nonetheless, no substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to noise than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.12 Population and Housing

Impacts Identified in the 2023 EIR

As discussed in Section 4.12, *Population and Housing*, of the 2023 EIR, the HEU would add housing sites with a potential for up to 19,098 additional residential units and 47,443 additional residents by the year 2031. The 2023 EIR found that the HEU would be consistent with State requirements for the RHNA and would be within the growth forecasts for Northwest Alameda County in Plan Bay Area 2050, which projected a 57 percent increase in population for Northwest Alameda County. The 2023 EIR found that the HEU would not directly or indirectly result in substantial unplanned population growth and would not result in the displacement of substantial numbers of people or housing. Therefore, impacts were found to be less than significant.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR. The allowed land uses, potential increase in residential density, and total number of potential new units that would be

City of Berkeley

Middle Housing Zoning and General Plan Amendments

facilitated by the proposed amendments would be within those studied in the 2023 EIR for the Middle Housing program, and in fact would generate less population and have the potential to displace fewer housing units, as they would result in fewer units than analyzed for the Middle Housing program in the 2023 EIR. Impacts related to population and housing would be the same as for the program studied in the 2023 EIR and would be less than significant.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur related to population and housing, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to population and housing, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to population and housing than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.13 Public Services and Recreation

Impacts Identified in the 2023 EIR

As discussed in Section 4.13, *Public Services and Recreation*, of the 2023 EIR, the HEU would increase demand for fire and police protection services, school facilities, and parks and recreational facilities. However, compliance with Government Code 65995 (b) as well as policies in the City's General Plan and BMC would reduce impacts to a less than significant level.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR, with the exception of parcels in the Hillside Overlay. The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be less than those studied in the 2023 EIR for the Middle Housing program and would therefore generate reduced demand for public services and parks/recreational facilities. The same fees, regulations, and policies would apply. The proposed project would allow greater lot coverage for certain residential developments than is currently allowed, but this change to development standards is consistent with the Middle Housing program described and analyzed in the 2023 EIR, which anticipated the City would "review and amend the Zoning Code and applicable objective development standards to encourage a mix of dwelling types and sizes." Impacts related to public services and recreation would be the same as for the program studied in the 2023 EIR and would be less than significant.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur related to public services and recreation, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to public services and recreation, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to public services and recreation than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.14 Transportation

Impacts Identified in the 2023 EIR

As discussed in Section 4.14, *Transportation*, of the 2023 EIR, the HEU, which included the Middle Housing program, would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. Although the HEU would increase ridership for AC Transit and BART, AC Transit and BART monitor and plan for anticipated changes in local and regional ridership levels and increased demand through their ongoing evaluation of routes, schedules, ridership, and capacity availability. The HEU would also be consistent with the City's 2017 Bicycle Plan and development would be required to provide long-term and short-term bicycle parking in accordance with BMC Section 23.322.090 as well as meet applicable requirements for pedestrian access under BMC Section 23.304.100.

The 2023 EIR found that the HEU would decrease VMT per capita by 3 percent, from 11.22 to 10.86, which would be below the City of Berkeley VMT threshold of 19.38 (15 percent below regional average household VMT per capita of 22.80). Therefore, VMT impacts were found to be less than significant.

As found in the 2023 EIR, the HEU would not include hazardous geometric design features or incompatible uses, and circulation components and geometric design features for individual projects would be reviewed by the City Engineering division and would be in accordance with all applicable City standards and the building plan check process to minimize design hazards. Therefore, this impact was determined to be less than significant.

The HEU also would not result in inadequate emergency access. The 2023 EIR determined that development under the HEU would be required to comply with basic building designs and standards for residential buildings as mandated by the Berkeley Fire Code, under BMC Chapter 19.48. As a part of development review, representatives from several City departments and representatives, including the Building and Safety Division, the Transportation Division, and the Fire Department, would review the entitlement plan set to ensure compliance with egress requirements and other fire safety features. Individual projects would be required to incorporate all applicable design and safety requirements as set forth in the most current adopted building codes and fire and life safety standards. Compliance with these standards is ensured through the City review and building plan check process. Based on the preceding, impacts related to emergency access were found to be less than significant.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR, except for parcels in the

City of Berkeley

Middle Housing Zoning and General Plan Amendments

Hillside Overlay. The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be within those studied in the 2023 EIR for the Middle Housing program. The proposed amendments also would not apply in the Hillside Overlay, where emergency access is most constrained, thus resulting in lesser impacts than those studied in the 2023 EIR. Therefore, impacts related to vehicle miles traveled; roadway, pedestrian and bicycle facilities; transit; and traffic safety/circulation would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to transportation and circulation, and no new or revised mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to transportation, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to transportation than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.15 Tribal Cultural Resources

Impacts Identified in the 2023 EIR

As discussed in Section 4.15, *Tribal Cultural Resources*, of the 2023 EIR, ground-disturbing activities associated with the HEU could expose and adversely affect previously unidentified subsurface archaeological resources that may qualify as tribal cultural resources. However, impacts would be less than significant with adherence to the City's Standard COAs related to archaeological resources and human remains set forth above under Section 4.4, *Cultural Resources*, as well as Mitigation Measure TCR-1, which was adopted and incorporated into the HEU and would require tribal cultural monitoring.

Impacts of the Proposed project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR, except for parcels in the Hillside Overlay. Ground disturbance would occur in similar areas on sites scattered throughout urbanized areas of the city. The same mitigation measures from the 2023 EIR that required Native American tribal consultation processes would apply. Potential impacts to tribal cultural resources would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to Tribal Cultural Resources, and no new mitigation measures are required. Berkeley's Standard COAs related to archaeological resources and human remains, set forth above in Section 4.4, *Cultural Resources*, which apply to the HEU as a whole, would remain applicable. Previously adopted 2023 EIR Mitigation Measure TCR-1, ,

incorporated in the City's Standard COAs, also would remain applicable and would continue to be implemented and monitored.

TCR-1 Tribal Cultural Monitoring

For future projects that are determined through tribal consultation to potentially affect tribal cultural resources, in order to mitigate potential adverse impacts to Native American cultural objects and human remains discovered during construction, tribal cultural monitors will be retained to monitor work done in areas of Tribal concern, as determined through tribal consultation. If Native American cultural objects and/or human remains are discovered during construction, work shall be halted within 100 feet of the discovery until the objects have been inspected and evaluated by tribal cultural monitors and a qualified archaeologist meeting the Professional Qualifications Standards of the Secretary of the Interior (36 CFR Part 61). The archaeologist shall, in accordance with the appropriate Guidelines, identify and evaluate the significance of the discovery and develop recommendations for treatment in consultation with the affected Tribe to ensure any impacts to the cultural resource are less than significant. The preferred mitigation is avoidance. If avoidance is not feasible, project impacts shall be mitigated in consultation with the affected Tribe consistent with the *CEQA Guidelines for Determining the Significance of and Impacts to Cultural Resource, Archaeological Historic and Tribal Cultural Resources*. Such mitigation may include, but is not limited to, additional archaeological testing, archaeological monitoring and/or an archaeological data recovery program. A Native American monitor shall be retained to monitor the ground disturbance when it is suspected that a TCR might be encountered.

Conclusion

The proposed project would have less than significant impacts with mitigation with respect to tribal cultural resources, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to tribal cultural resources than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.16 Utilities and Service Systems

Impacts Identified in the 2023 EIR

As discussed in Section 4.16, *Utilities and Service Systems*, of the 2023 EIR, HEU would increase water demand in the City by an estimated 0.96 MGD, or approximately 0.5 percent, above the 2030 EBMUD water service area demand estimate of 190 MGD. The increase of 0.5 percent from the projected 2030 water demand in EBMUD's Urban Water Management Plan (UWMP) would also increase the gallons per capita per day (GPCD) from 121 GPCD to 127 GPCD. However, this would still be well below the EBMUD service area water reduction goal of 153 GPCD by 2020. Therefore, EBMUD infrastructure and facilities would have adequate capacity to service the HEU, and construction and operation of development facilitated by the HEU would not require new or expanded water supply facilities. With demand management during multi-year droughts, as required by EBMUD, impacts of HEU related to water supply would be less than significant.

As discussed in Section 4.16, *Utilities and Service Systems*, of the 2023 EIR, development facilitated by the HEU would generate approximately 765,688 gallons per day (gpd) of wastewater. EBMUD

City of Berkeley

Middle Housing Zoning and General Plan Amendments

projects that 61 mgd of wastewater will be collected and treated in the EBMUD Special District No.1 by 2040. Therefore, the HEU would generate approximately 1.3 percent of the wastewater collected and treated in the district by 2040. The increased wastewater generation would be within the remaining capacity of EBMUD's Main Wastewater Treatment Plant (MWWTP), and the plant's existing wastewater treatment capacity would be sufficient to accommodate the increase in population facilitated by the HEU. Additionally, as discussed in the 2023 EIR, although the construction of new or expanded sewer mains may be necessary to accommodate additional wastewater flow, development would be required to comply with the City's Private Sewer Lateral Ordinance (BMC Section 17.24.130) (City of Berkeley 2023c) and impacts related to individual new sewer main construction projects would be less than significant due to their temporary nature, adherence to existing requirements, and the already developed nature of wastewater conveyance corridors. Development facilitated by the HEU would be required to comply with BMC Title 17 which establishes City standards related to wastewater discharge, peak flow, and sewer capacity. Every person, firm, corporation or entity desiring to construct a new connection to sewer services to the City's sanitary sewer system would be required to pay a connection fee in the amount as established by City Council resolution. With adherence to City regulations and General Plan policies, impacts related to wastewater conveyance and the construction of new or expanded wastewater facilities were found to be less than significant.

As discussed in the 2023 EIR, existing stormwater infrastructure, electricity and natural gas facilities, and telecommunications infrastructure would be able to accommodate the increased demand under the HEU, and the construction or relation of facilities would be required.

Lastly, the 2023 EIR found that the HEU would generate 23.7 cubic yards of solid waste per day or 8,651 cubic yards of solid waste per year, which would be 0.013 percent of the total remaining capacity of 65.4 million cubic yards of the Altamont Landfill. Therefore, impacts to solid wastes were found to be less than significant.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR. The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be within those studied in the 2023 EIR for the Middle Housing program. Impacts related to utilities and service systems, including water demand, wastewater and stormwater generation, solid waste generation, and electricity, natural gas and telecommunications service, would be within those disclosed in the 2023 EIR.

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to utilities and service systems, and no new mitigation measures are required.

Conclusion

The proposed project would have less than significant impacts with respect to utilities and service systems, similar to the 2023 EIR. No substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to utilities and service systems than were identified in the 2023 EIR. None of the conditions listed in CEQA

Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

4.17 Wildfire

Impacts Identified in the 2023 EIR

As discussed in Section 4.17, *Wildfire*, of the 2023 EIR, 82 units of the HEU would be located in Fire Zones 2 and 3, which are considered Very High Fire Hazard Severity Zones (VHFHSZ). The HEU would also facilitate increased residential development in the R-1, R-2, and R-2A districts, which include portions within the VHFHSZ. Development facilitated by the HEU would be subject to the City's Standard COA to prepare a Transportation Construction Plan, which would limit the extent to which development would impair or physically interfere with adopted emergency response or evacuation procedures. Development also would be required to comply with existing City regulations and prepare a Fire Protection Plan for housing projects in the Wildland-Urban Interface Fire Area, which would reduce the potential to exacerbate wildfire risk during construction and after projects are constructed. This would also reduce the severity of potential impacts related to exposure to pollutant concentrations from a wildfire or the likelihood of wildfire ignition. Furthermore, the BMC requires site-specific geotechnical investigations which would reduce potential impacts related to landslides, post-fire slope instability, or drainage changes following a potential wildfire for individual future development projects. Nonetheless, for some development projects, impacts may result from the potential for unusual site-specific or road conditions, project characteristics, and the general ongoing fire risk in the Berkeley Hills; therefore, impacts were found to be significant and unavoidable.

The 2023 EIR found that new development could require the installation and maintenance of new or improved roads, emergency water sources, power lines or other utilities, the construction and operation of which could introduce potential sources of wildfire ignition, such as the sparking of an overhead power line or construction equipment or the operation of resident vehicles. Although Mitigation Measure W-1, which was adopted and incorporated into the HEU and would reduce potential risks by requiring power lines to be placed underground in areas subject to wildfire risk, it may not be feasible to impose the requirement on all projects. Potentially unusual site-specific conditions or aspects of a specific infrastructure project, including power line installation, may result in wildfire impacts from the installation or maintenance of infrastructure required by build out of the HEU. Therefore, this impact was also found to be significant and unavoidable.

Impacts of the Proposed Project

The proposed amendments would affect the same parcels as envisioned for the Middle Housing program and studied for development or redevelopment in the 2023 EIR, with the exception of those in the Hillside Overlay, which are within or closer to fire hazard zones. The allowed land uses, potential increase in residential density, and total number of potential new units that would be facilitated by the proposed amendments would be less than those studied in the 2023 EIR for the Middle Housing program. The same regulations, mitigation measure and standard conditions of approval would apply. Impacts related to wildfire would be reduced compared to those disclosed and analyzed in the 2023 EIR.

City of Berkeley

Middle Housing Zoning and General Plan Amendments

Effects and Mitigation Measures

No new or substantially more severe significant effects would occur to wildfire, and no new mitigation measures are required. Berkeley's Standard COA requiring preparation of a Transportation Construction Plan, as referenced in the 2023 EIR and shown below, would remain applicable.

Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere in the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

Conclusion

Similar to the HEU, even with continued implementation of the City's Standard COA for a Transportation Construction Plan, wildfire impacts would remain significant and unavoidable. Nonetheless, no substantial changes have occurred that require major revisions to the 2023 EIR. There is no new information indicating that the proposed project would have new significant impacts or substantially more severe significant impacts with respect to wildfire than were identified in the 2023 EIR. None of the conditions listed in CEQA Guidelines Section 15162 that would indicate that the project is not consistent with the HEU and its impacts as studied in the 2023 EIR have been met.

5 Conclusion

This report demonstrates that the proposed project is consistent with the Middle Housing program analyzed in the 2023 EIR, and that potential impacts associated with the proposed project would be consistent with potential impacts characterized in and mitigation measures developed for the 2023 EIR. Substantive revisions to the 2023 EIR are not necessary because no new significant impacts or impacts of substantially greater severity than previously described would occur as a result of the proposed project. Therefore, the following determinations are applicable:

- No further evaluation of environmental impacts is required for the proposed project
- No Subsequent EIR or negative declaration is necessary per CEQA Guidelines Section 15162
- This report is the appropriate level of environmental analysis and documentation for the proposed project in accordance with CEQA Guidelines Section 15168(c).

Pursuant to CEQA Guidelines Section 15168(c), this report will be included in the public record and will be considered as part of the deliberations on the proposed project. Documents related to this report will be available at the City of Berkeley Planning and Development Department.

6 References and Preparers

6.1 References

Berkeley, City of. 2023. City of Berkeley 2023-2031 Housing Element Update Final Environmental Impact Report. <https://berkeleyca.gov/construction-development/land-use-development/general-plan-and-area-plans/housing-element-update>

6.2 List of Preparers

Rincon Consultants, Inc. prepared this consistency analysis under contract to the City of Berkeley. Persons and firms involved in data gathering, analysis, project management, and quality control include the following:

Rincon Consultants, Inc.

Abe Leider, AICP CEP, Principal-in-Charge
Karly Kaufman, MESM, Senior Reviewer and QAQC^{1903245.1}

⁴⁶ City of Berkeley 2023-2031 Housing Element Update Environmental Impact Report.
https://berkeleyca.gov/sites/default/files/documents/ATT%202%20FEIR_RTC.pdf

Review of Prior City Council Actions and Referrals related to Middle Housing

At its meeting of July 23, 2024, the City Council directed staff to review prior referrals and to respond to any specific questions or requests included in those referrals. Responses are included below.

Housing Accountability Act Referral

On July 11, 2017 the City Council adopted the Housing Accountability Act referral, directing the City Manager and Planning Commission to consider the following actions.

- **Request:** Amend the General Plan and Zoning Ordinance to adopt numerical density and/or building intensity standards that can be applied on a parcel-by-parcel basis in an easy and predictable manner. These would constitute reliable and understandable “objective general plan and zoning standards” that would establish known maximum densities. This could be done across the board or for specified districts.

Response: The proposed zoning and General Plan amendments include numerical minimum and maximum density standards.

- **Request:** Devise and adopt “objective, identified written public health or safety standards” applicable to new housing development projects.

Response: The proposed zoning amendments would not apply to parcels located in the Hillside Overlay Zone, and include a building separation requirement of 5 feet. These policies are directly related to fire safety and disaster preparedness.

- **Request:** Adopt “design review standards that are part of ‘applicable, objective general plan and zoning standards and criteria.’”

Response: The proposed zoning amendments include objective *development* standards, but do not include objective *design* standards. Staff had proposed establishing a floor area ratio requirement for new development, with the intention of controlling overall building bulk while providing flexibility in project siting and design, but that recommendation was not accepted by the Planning Commission or the City Council. The Planning Commission and City Council were also presented with draft standards related to facade treatments but ultimately did not recommend them. Additionally, in 2021, a joint subcommittee of Planning Commission and the Zoning Adjustments Board advanced to City Council objective standards recommendations for density, design, and shadows, which were not adopted.

- **Request:** Quantify and set standards for views, shadows, and other impacts that often underlie detriment findings.

Response: The proposed zoning amendments include objective height standards. These standards establish a maximum 35 foot high limit, while also limiting height to 22 feet in the rear 15 feet of a property. Both the maximum height limit of 35 feet and the lower height limit in the rear of a property were developed as a result of solar access analysis conducted as part of the middle housing zoning policy development process. Initially, staff had recommended a 28 foot average height paired with a 35 foot maximum height, in an effort to address concerns about solar access and views. Ultimately, the City Council recommended a single 35 foot maximum height standard.

Missing Middle Housing

On April 23, 2019 the City Council adopted the Missing Middle Housing Report referral. The referral asked staff to prepare a report covering the following items:

1. Identifying where missing middle housing may be optimal.

Response: The proposed zoning amendments identified areas currently zoned R-1, R-1A, R-2, R-2A and MUR as the optimal locations for middle housing projects.

2. Allowing the possibility of existing houses/footprints/zoning envelopes to be divided into up to 4 units, potentially scaling the floor area ratio (FAR) to increase as the number of units increase on site, creating homes that are more affordable, saving and lightly modifying an older structure as part of internally dividing it into more than one unit.

Response: The proposed zoning amendments include provisions permitting the development of between one and seven units on typical 5,000 square foot parcels in the low-density residential districts.

Staff had proposed to the Planning Commission and City Council a scaling floor area ratio development standard, and a scaling lot coverage standard, that would permit more building bulk when a project included more units. Neither the Planning Commission nor the City Council accepted those proposed development standards.

3. Evaluating Berkeley's residential areas –including Berkeley hillsides– while also considering fire and disaster preparedness service needs.

Response: The proposed zoning amendments would not apply to parcels located in the Hillside Overlay Zone, and include a building separation requirement of 5 feet. These policies are directly related to fire safety and disaster preparedness.

4. Considering design elements and form-based zoning, which addresses the appropriate form, scale and massing of buildings as they relate to one another, as a potential strategy.

Response: The proposed zoning amendments include objective development standards that permit additional development on a single parcel, while not exceeding the size of smaller multi-family residential buildings that are part of the historic fabric of Berkeley neighborhoods. Staff had proposed scaling floor area ratio and scaling lot coverage standards, both efforts to control building massing, but neither standard was recommended by the Planning Commission or City Council.

5. Creating incentives to maintain family-friendly housing stock while adding more diversity and range of smaller units.

Response: The proposed zoning amendments do not include specific unit size controls or standards that are typically used to promote “family friendly” development (2+ bedrooms). The proposed zoning amendments do include minimum and maximum density standards, which permit flexibility in providing larger units in smaller configurations, or allowing a larger number of small units. The maximum density standard would avoid a project including a high number of very small units.

6. Creating incentives for building more than one unit on larger than average lots.

Response: The proposed zoning amendments include minimum and maximum densities based on a dwelling units per acre standard. Therefore, larger parcels would be permitted to include more units than a typical parcel. Staff had originally recommended a policy of permitting multi-unit development with a ZC, while maintaining a UP(PH) requirement for single family homes, to incentivize the development of multi-unit projects. The Planning Commission and the City Council, however, opted for permitting all residential development with a ZC.

7. Providing suggestions to:

- a. protect existing housing stock, particularly affordable and rent-controlled stock

- b. protect tenant and vulnerable low-income individuals
- c. control demolition
- d. ensure no net loss provisions

Response: The City Council adopted revisions to the Demolition Ordinance that reflect new State law requirements on affordability and tenant protections, while also including Berkeley-specific requirements for affordability and tenant protections.

- e. increase affordability with provisions that align with our land value recapture policy objectives.

Response: As discussed above, the proposed zoning amendments do not include any new affordable housing requirements that apply only to middle housing zoning projects. Middle housing zoning projects would still be subject to Inclusionary Zoning requirements, and any housing affordability requirements that come pursuant to the Demolition Ordinance.

8. Evaluating whether changes –or lack of changes– would
- a. place particular economic or gentrifying pressure on low-income neighborhoods with historic redlining or contribute to
 - b. Contribute to further exclusion and/or exacerbate racial and economic segregation in Berkeley.

Response: A specific evaluation of these topics was not prepared as part of the development of the proposed zoning amendments. However, the 2023-2031 Housing Element Update included detailed discussion of the city's housing needs, and policies and programs to avoid displacement and preserve additional affordable housing. For example, the Housing Element identified the middle housing zoning changes as strategies to affirmatively further fair housing by eliminating historic exclusionary zoning practices that contributed to racial and economic segregation in Berkeley. Additionally, prior to consideration of the proposed zoning amendments, the City Council adopted a revised Demolition Ordinance, which included state mandated affordable housing replacement requirements as well as tenant protections. In addition, the Demolition Ordinance includes a number of Berkeley specific provisions that provide depth of affordability and tenant protections beyond what is required under state law.

9. Evaluating methods for promoting first time home ownership of these units (e.g., Open Doors Initiative) and/or providing assistance to first time homebuyers so that the benefits of the additional housing are equitably distributed.

Response: The proposed zoning amendments do not include any new policies or programs that encourage first time home ownership of units developed in middle housing projects.

10. Incorporating green features and evaluating environmental impacts of missing middle housing.

Response: The proposed zoning amendments do not include any additional green features that are not also required of other types of residential development. The environmental impacts of the proposed zoning amendments were evaluated as part of the Housing Element Environmental Impact Report.

11. Considering historic preservation efforts and preventing impacts to designated historic resources.

Response: The Demolition Ordinance requires any proposed demolition of a historic structure, structure of merit, or structure located in an historic district to be evaluated by the Landmarks Preservation Commission.

12. Examining how different cities effectuated these changes (e.g. changes to their General Plan, zoning changes, etc.).

Response: As part of the preparation of the middle housing zoning changes, staff evaluated similar efforts undertaken in other jurisdictions. These jurisdictions include the cities of Oakland, Sacramento, Cambridge (MA), and other jurisdictions.

13. Evaluating the public process used in the course of considering these changes.

Response: The following community outreach activities supported the work of Planning and Development staff in the development of the Middle Housing Zoning changes. Most meetings in 2021 and 2022 were related to the Housing Element Update, which included middle housing standards as well as residential objective standards for larger buildings. Meetings conducted in 2023 and 2024 were more specifically focused on the development of middle housing standards in the low-density residential zones.

City Council Meetings and Workshops

- City Councilmember briefings, Middle Housing: August 2023
- Worksession #4, Middle Housing and Southside: September 30, 2022 (16 speakers)
- Worksession #3, Residential Objective Standards: March 15, 2022 (60 attendees)

- Worksession #2, Housing Element Update: December 9, 2021 (10 speakers)
- Worksession #1, Housing Element Update: September 21, 2021 (22 speakers)

Planning Commission Meetings

- Middle Housing Public Hearing: February 7, 2024 (12 speakers)
- Middle Housing Discussion: November 1, 2023 (10 speakers)
- Middle Housing Discussion: June 1, 2022 (11 speakers)
- Residential Objective Standards: February 16, 2022 (Planning Commission/Zoning Adjustments Board Subcommittee) (no minutes available)
- Residential Objective Standards: December 15, 2021 (Planning Commission/Zoning Adjustments Board Subcommittee) (no minutes available)
- Housing Element Update: September 1, 2021 (no speakers)

Other City Commission Meetings and Briefings

- Middle Housing Briefing, Commission on Aging: July 17, 2024
- Middle Housing Briefing, Housing Advisory Commission: July 11, 2024
- Middle Housing Briefing, City of Berkeley Building and Safety and Berkeley Fire Department: October 17, 2023
- Housing Element, City/UC/Student Relations Committee: January 28, 2022
- Housing Element, Civic Arts Commission: January 19, 2022
- Housing Element, Rent Board: November 18, 2021
- Housing Element, Housing Advisory Commission: September 30, 2021
- Housing Element, Energy Commission: September 22, 2021
- Housing Element, Commission on Aging: September 15, 2021
- Housing Element, Zoning Adjustments Board: September 9, 2021
- Housing Element, Landmarks Preservation Commission September 2, 2021
- Housing Element, Homelessness Panel of Experts: September 1, 2021
- Housing Element, Commission on Disability: September 1, 2021

Community Public Workshops

- Community Workshop #3: Housing Element and Residential Objective Standards: June 29, 2022 (45 attendees)
- Community Workshop #2: Housing Element and Residential Objective Standards: January 27, 2022 (60 attendees)
- Community Workshop #1: Housing Element: October 27, 2021 (70 attendees)

Community Outreach

- City Council Districts 1 and 2, Middle Housing Information Session: October 24, 2024

- City Council District 4, Middle Housing Information Session: October 7, 2024.
- Tabling at Community Events:
 - Harvest Festival: October 19, 2024
 - Roses in Bloom: May 14, 2022 (total respondents unknown)
 - Berkeley Bowl: April 25, 2022 (65 survey respondents)
 - Downtown Farmers' Market: February 22, 2022 (total respondents unknown)
- Online Community Housing Survey: October 28th – November 14, 2021 (747 respondents)
- Self-Guided West Berkeley Middle Housing Walking Tour: November 23, 2021 – January 31, 2022
- (26 after-tour survey responses; total number of tour takers unknown)
- Self-Guided Downtown Berkeley Middle Housing Walking Tour: November 23, 2021 – January 31, 2022 (23 after-tour survey responses; total number of tour takers unknown)

Community Organizations Briefings

- Middle Housing Standards, Berkeley Neighborhoods Council: September 14, 2024
- Middle Housing Standards, Berkeley Design Advocates: November 1, 2023
- Middle Housing Standards, Berkeley Neighborhoods Council: October 14, 2023
- Middle Housing Standards, East Bay for Everyone: October 6, 2023
- Middle Housing Standards, Architect Interviews: September 2023

Department of Planning and Development's Housing Element Email List

Selection of middle housing-related event announcements

- Announcement for July 23rd City Council Public Hearing: July 18, 2024 (499 recipients; 51% opened)
- Announcement for February 7th Planning Commission Public Hearing: January 31, 2024 (464 recipients; 64% opened)
- Announcement for November 1st Planning Commission Discussion: October 26, 2023
- (433 recipients; 71% opened)
- Announcement for September 20, 2022 City Council Worksession on Middle Housing: September 16, 2022 (433 recipients; 71% opened)
- Announcement for Community Workshop #3: June 24, 2022 (403 recipients; 62% opened)
- Announcement for City Council Worksession #3: March 10, 2022 (369 recipients; 62% opened)
- Announcements for Community Workshop #2: January 24, 2022 and January 6, 2022 (343 recipients; 65% opened)

- Announcement for Self-Guided Walking Tours: November 24, 2021 (331 recipients; 56% opened)
- Announcements for Community Survey: November 10, 2021 (314 recipients; 63% opened) and October 28, 2021 (257 recipients; 57% opened)
- Announcement for Community Workshop #1: October 14, 2021 (218 recipients; 51% opened)

Eliminating Exclusionary Zoning

On February 23, 2021 the City Council adopted a Resolution to End Exclusionary Zoning in Berkeley. The resolution called for the following:

1. Protect public safety in all neighborhoods.

Response: The proposed zoning amendments include development standards developed through consultation with the Berkeley Fire Department. The proposed building separation requirement, for example, was included in direct response to a recommendation from the Fire Department. Additionally, the proposed zoning amendments are not applied to parcels located in the Hillside Overlay Zone. This exclusion was in response to concerns about emergency response and evacuation.

2. Allow for new housing that reflects the existing mix of multi-family housing types within neighborhoods.

Response: The proposed zoning amendments permit multi-family housing types in Berkeley's historic low density residential districts.

3. Provide strong anti-displacement and tenant protections.

Response: The Demolition Ordinance, revised in summer 2024, reflects new State law requirements on affordability and tenant protections, while also including Berkeley-specific requirements for affordability and tenant protection.

4. Accommodate families in new and rehabilitated multi-family housing developments.

Response: The proposed zoning amendments do not include specific unit size controls or standards that would reliably result in family sized units (2+ bedrooms). The proposed zoning amendments do include minimum and maximum density standards, which permit flexibility in providing larger units in smaller configurations, or allowing a larger number of small units. The maximum

density standard would avoid a project including a high number of very small units.

5. Ensure that new development does not demolish any rent-controlled or below market-rate housing.

Response: The revised Demolition Ordinance reflects new State law requirements on affordability and tenant protections, while also including Berkeley-specific requirements for affordability and tenant protection. The Demolition Ordinance requires the replacement of any demolished rent-controlled or affordable housing.

6. Explore incentives for projects to contribute to the need for affordable housing.

Response: As discussed above, the proposed zoning amendments do not include any new affordable housing requirements that apply only to middle housing zoning projects. Middle housing zoning projects would still be subject to inclusionary zoning requirements, and any housing affordability requirements that come pursuant to the Demolition Ordinance or the utilization of State density bonus.

7. Carry out a robust community process when developing zoning changes.

Response: The staff report prepared for the July 23, 2024 City Council meeting includes a detailed description of the community process and outreach efforts undertaken in the development of the middle housing zoning changes. Subsequent to the July 23, 2024 City Council meeting, further community outreach was undertaken, with their presentation to the Berkeley Neighborhoods Council, as well as community meetings hosted by Council members from Districts 1, 2 and 4.

Objective Standards for Density, Design and Shadows

On November 9, 2021 the City Council adopted the Objective Standards for Density, Design and Shadows referral. The referral directed staff to consider and codify objective zoning standards with the goal of encouraging the creation of additional residential development and affordable homes.

The proposed zoning amendments respond to the referral's calls to increase certainty for applicants and to reduce administrative costs and burden associated with discretionary review. Primarily this is accomplished through permitting a code compliant residential development with a ZC, a ministerial approval that is not subject to appeal, and through the development of objective development standards that are clearly stated in the zoning code, and are not subject to change with additional discretionary permits.

NOTICE OF PUBLIC HEARING BERKELEY CITY COUNCIL

Adoption of Zoning Ordinance Amendments to Title 23 of the Berkeley Municipal Code, Zoning Map Amendments, and General Plan Amendments to Encourage Middle Housing

The public may participate in this hearing by remote video or in-person.

The Department of Planning and Development is proposing amendments to the City's Zoning Ordinance (Title 23) in response to City Council referrals and the City's 2023-2031 Housing Element, and as recommended by the Planning Commission, which requires the City to promote "middle housing" (2-6 units) in the Single-Family Residential (R-1), Limited Two-Family Residential (R-1A), Restricted Two-Family Residential (R-2), Restricted Multiple-Family (R-2A) and Mixed-Use Residential (MU-R) zoning district. The Department is also proposing amendments to the text of the General Plan and the General Plan map that conform with the proposed zoning amendments.

Proposed zoning amendments affect the following Sections of Title 23: 23.108.020 (Zoning Districts), 23.202.020 (Allowed Land Uses), 23.202.030 (Additional Permit Requirements), 23.202.040 (Use-Specific Regulations), 23.202.050 (R-1 Single Family Residential District), 23.202.060 (R-1A Limited Two-Family Residential District), 23.202.080 (R-2 Restricted Two-Family Residential District), 23.202.090 (R-2A Restricted Multi-Family Residential District), 23.204.020 (Allowed Land Uses), 23.206.020 (Allowed Land Uses and Permit Requirements), 23.206.090 (MU-R Mixed-Use Residential District), 23.210.020 (Hillside Overlay Zone), 23.304.030 (Setbacks), 23.304.040 (Building Separation in Residential Districts), 23.322.100 (On-site Loading Spaces), 23.324.050 (Conforming and Nonconforming Structures and Buildings), 23.326.030 (Demolition and Dwelling Unit Control), 23.406.020 (Zoning Certificates), and 23.502.020 (Glossary).

Proposed amendments also affect the following Sections of Title 23, but only insofar as they are being renumbered: 23.202.100 (R-3 Multiple-Family Residential District), 23.202.110 (R-4 Multi-Family Residential District), 23.202.120 (R-5 High-Density Residential District), 23.202.130 (R-S Residential Southside District), 23.202.140 (R-SMU Residential Southside Mixed Use District), 23.202.150 (R-BMU Residential BART Mixed Use). The proposed amendments also include conforming Zoning Map amendments, and non-substantive technical corrections to ensure consistency throughout the Zoning Ordinance.

Proposed General Plan text and map amendments include renaming the Low Density Residential classification to Lower Density Residential, assigning the Medium Density Residential classification to the R-2, R-2A and R-3 zoning districts, and other text

amendments that reflect the City Council's recommendation with respect to the names of zoning districts and the proposed development standards.

Pursuant to CEQA Guidelines § 15168(c), the proposed amendments are within the scope of the Final Environmental Impact Report (Final EIR) prepared by the City of Berkeley for the City of Berkeley 2023-2031 Housing Element Update (HEU) Project, and the Final EIR adequately describes the proposed project of the purposes of CEQA.

The hearing will be held on, Tuesday, April 29, 2025 at 6:00 pm in the School District Board Room, located at 1231 Addison Street, Berkeley CA 94702.

A copy of the agenda material for this hearing will be available on the City's website at <https://berkeleyca.gov/> as of April 17, 2025. **Once posted, the agenda for this meeting will include a link for public participation using Zoom video technology, as well as any health and safety requirements for in-person attendance.**

For further information, please contact Justin Horner, Principal Planner at 510-981-7476. Written comments should be mailed or delivered directly to the City Clerk, 2180 Milvia Street, Berkeley, CA 94704, or e-mailed to council@berkeleyca.gov in order to ensure delivery to all Councilmembers and inclusion in the agenda packet.

Communications to the Berkeley City Council are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the City Council, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the City Clerk. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the City Clerk at (510) 981-6900 or clerk@berkeleyca.gov for further information.

Published: April 18, 2025 – The Berkeley Voice

Public Hearing required by BMC 23.412.050 and Govt Code 65853; notice provided according to Govt Code 65090 and BMC 23.404.040.

~~~~~  
I hereby certify that the Notice for this Public Hearing of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on April 17, 2025.

---

Mark Numainville, City Clerk

