



PLANNING AND DEVELOPMENT DEPARTMENT
LAND USE PLANNING DIVISION

PLANNING COMMISSION MEETING AGENDA

Date: Wednesday March 5, 2025

Time: 6:00 PM

Location: North Berkeley Senior Center
1901 Hearst Avenue, Berkeley

The Planning Commission meeting packet is available for review on the City's website, and linked here:

<https://berkeleyca.gov/your-government/boards-commissions/planning-commission>

The Commission currently consists of nine members appointed by City Council:

Blaine Merker, District 1
Jeff Vincent, Chair, District 2
Darrell Owens, District 3
Christina Oatfield, District 4
Charles Kahn, District 5
Emily Marthinsen, District 6
Alfred Twu, District 7
Savlan Hauser, District 8
Vacant, Mayor



ACCESSIBILITY INFORMATION / ADA DISCLAIMER

This material is available in alternative formats upon request. Alternative formats include audio-format, braille, large print, electronic text, etc. To request alternative formats, please contact the Disability Services Specialist at: Email: ADA@berkeleyca.gov; Phone: 1-510-981-6418; TTY: 1-510-981-6347, and allow 7-10 days for production of the material in an alternative format.

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at: Email: ADA@berkeleyca.gov; Phone: 1-510-981-6418; TTY: 1-510-981-6347, at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

For inclusion in the Commissioners' agenda packet, please submit written comments by Wednesday the week prior to the meeting. One set of "late communications" will be distributed to the Commissioners two days before the meeting. Please submit any material for distribution as "late communications" no later than 12:00 noon on the Tuesday prior to the meeting. Please be advised: Commissioners do not have an opportunity to read written materials handed out at the meeting.

Correspondence and Notice of Decision Requests

- **To distribute correspondence for inclusion in the agenda packet** -- submit comments **by 12:00 noon, Wednesday February 26, 2025**. Please provide 12 copies of any correspondence with more than ten (10) pages or if in color or photographic format. This method is strongly preferred.
- **Late Communications** must be submitted **by 12:00 noon, Tuesday March 4, 2025**. Any correspondence received after this deadline will be given to Commission members on the meeting date just prior to the meeting. Correspondence received later, and after the meeting, will be posted to the website following the meeting.
- Staff will not deliver to Commission members any additional written (or e-mail) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 12 copies and submit to the Planning Commission Secretary. **Please be advised: You are strongly advised to submit written comments *prior* to the meeting date as Commission members do not have an opportunity to read written materials handed out at the meeting.**
- Written comments or request for a Notice of Decision should be directed to the Planning Commission Secretary.

Communications to Berkeley Boards, Commissions or Committees 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 a City Board, Commission or Committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the relevant Board, Commission or Committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, Commission or Committee for further information.**

Contact:

Justin Horner, Planning Commission Secretary
(510) 981-7410 | jhorner@berkeleyca.gov | 1947 Center Street, Berkeley CA 94704

1. **ROLL CALL:** Please put all cellular phones and ringers on silent during the meeting.
2. **EX-PARTE COMMUNICATIONS:** In the context of adjudicative matters that come before the Planning Commission, ex-parte communications are those which occur outside of the formal hearing process. Planning Commissioners should avoid ex-parte contacts on matters pending, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a decision on a matter before the Commission. If such contacts do occur, they must be placed in the record and disclosed to all interested parties sufficiently in advance of the decision to allow rebuttal.
3. **LAND ACKNOWLEDGEMENT STATEMENT:** The Commission recognizes that the community we live in was built on the territory of xučyun (Huchiun (Hooch-yoon)), the ancestral and unceded land of the Chochenyo (Cho-chen-yo)-speaking Ohlone (Oh-low-nee) people, the ancestors and descendants of the sovereign Verona Band of Alameda County. This land was and continues to be of great importance to all of the Ohlone Tribes and descendants of the Verona Band. As we begin our meeting tonight, we acknowledge and honor the original inhabitants of Berkeley, the documented 5,000-year history of a vibrant community at the West Berkeley Shellmound, and the Ohlone people who continue to reside in the East Bay. We recognize that Berkeley's residents have and continue to benefit from the use and occupation of this unceded stolen land since the City of Berkeley's incorporation in 1878. As stewards of the laws regulating the City of Berkeley, it is not only vital that we recognize the history of this land, but also recognize that the Ohlone people are present members of Berkeley and other East Bay communities today. The City of Berkeley will continue to build relationships with the Lisjan Tribe and to create meaningful actions that uphold the intention of this land acknowledgement.
4. **PUBLIC COMMENT on Non-Agenda and Information Items** (Three minutes per person; five minutes per organization, or at the discretion of the Chairperson)
5. **ORDER OF AGENDA**
6. **CHAIRPERSON REPORT**
7. **AD HOC Subcommittees and Liaison Comments**
Receive opportunity reports on status of projects for which the Planning Commission has established a subcommittee or liaison.
8. **COMMISSIONER ANNOUNCEMENTS**
9. **STAFF ANNOUNCEMENTS**
10. **APPROVAL OF MINUTES**

11. ACTION AND DISCUSSION ITEMS

- | | |
|--|--|
| <p>A. Action:</p> <p>Recommendation:</p>
<p>Written Materials:</p> <p>Presentation:</p> | <p>Public Hearing: Standard Conditions of Approval</p> <p>Staff recommends the Planning Commission hold a public hearing, take public comment, discuss the proposed zoning ordinance amendments and Standard Conditions of Approval document, and provide a recommendation to the City Council.</p> <p>Attached.</p> <p>N/A</p> |
| <p>B. Discussion:</p> <p>Recommendation:</p>
<p>Written Materials:</p> <p>Presentation:</p> | <p>Accessory Dwelling Unit (ADU) Discussion</p> <p>Staff recommends the Planning Commission review the staff report, receive the staff presentation, consider public comments, and provide feedback to staff on potential amendments to the ADU Ordinance.</p> <p>Attached.</p> <p>N/A.</p> |
| <p>C. Action:</p> <p>Recommendation:</p> <p>Written Materials:</p> <p>Presentation:</p> | <p>2025 Nominations for April Election</p> <p>Nominate Commissioners for Chair and Vice Chair.</p> <p>N/A</p> <p>N/A</p> |

12. **INFORMATION REPORTS: None.** Commissioners may ask for discussion to be scheduled on a future agenda (per Brown Act, no deliberation or final action may be taken).

13. CORRESPONDENCE

14. **NEXT COMMISSION MEETING:** Wednesday April 16, 2025

15. ADJOURN

NOTICE CONCERNING LEGAL RIGHTS

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



Planning Commission

**DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING
February 5, 2025**

The meeting was called to order at 6:05 p.m.

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

• **ROLL CALL:**

Commissioners Present: Jeff Vincent, Blaine Merker, Christina Oatfield, Charles Kahn, Alfred Twu, and Laurie Capitelli (Alternate for Emily Marthinsen)

Commissioners Absent: Emily Marthinsen (Excused), Darrell Owens (Excused), Savlan Hauser (Excused)

Staff Present: Secretary Justin Horner, Clerk Faye Messner, Alisa Shen, Jamie Albrecht, and Zoe Covello

LAND ACKNOWLEDGEMENT.

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

• **ORDER OF AGENDA:**

• None

• **PUBLIC COMMENT PERIOD: 1**

33 • **PLANNING STAFF REPORT:**

34 • March 5 Meeting Agenda

- 35 • Standard Conditions of Approval

- 36 • ADU Discussion Item in response to HDC Letter and AB 1033

37 • Upcoming Event: February 10th Community Meeting on Preliminary Objective Design
38 Standards for Ashby BART West Lot TOD

39 • Upcoming Council items:

- 40 • February 25, SLTE and Affordable housing Fee

- 41 • March 25, Gilman Gateway

42 • March: Final Council ranking of referrals

- 43 • Councilmembers will submit votes on February 21

44 **Information Items:**

- 45 • None

46 **Communications:**

- 47 • General.

48 **Late Communications:**

- 49 • None

50 • **CHAIR REPORT:**

- 51 • Chair Vincent thanked everyone for attending and welcomed new members and the
52 alternate Commissioner. The Chair noted changes to the Commission as a result of
53 the election.

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

- 56 • None.

58 **8. APPROVAL OF MINUTES:**

59 Motion/Second/Carried (Vincent/Twu) to approve the Planning Commission Meeting Minutes
60 from December 4, 2024.

61
62 Ayes: Vincent, Oatfield, Merker Twu, Kahn and Capitelli. Noes: None. Abstain: None Absent:
63 Marthinsen, Hauser, Owens. (6-0-0-3)

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

- 66 • None.

AGENDA ITEMS

10. Public Hearing: Local Hazard Mitigation Plan

Principal Planner Alisa Shen and Emergency Services Coordinator Jamie Albrecht presented on the 2024 Local Hazard Mitigation Plan (LHMP) and proposed technical edits the General Plan Safety Element to update the adoption year of the LHMP. Commissioners took public comment, asked questions and made comments including, but not limited to: Eucalyptus forests at the ridge of the hills, timing for updating the LHMP and whether it can be updated more frequently, and fire inspection, sea level rise, and tsunami risk programs and policies in the related Safety Element update.

Motions/Second/Carried (Vincent/Merker) to close the public hearing at 6:57pm.

Ayes: Vincent, Merker, Oatfield, Twu, Kahn and Capitelli. Noes: None. Abstain: None. Absent: Marthinsen, Hauser and Owens (6-0-0-3)

Motions/Second (Vincent/Kahn) to recommend staff's proposal to approve the LHMP and make a minor technical edit to amend the General Plan Disaster Preparedness and Safety Element to reference the adoption year of the LHMP update to City Council, at 7:49 pm.

Ayes: Vincent, Merker, Oatfield, Twu, Kahn and Capitelli. Noes: None. Abstain: None. Absent: Marthinsen, Hauser and Owens (6-0-0-3)

Public Comments: 0

11. 2025 Nominations for March Election

Motions/Second (Vincent/Merker) to defer the nominations to the next meeting in March and hold elections at the following meeting in April at 7:06 pm.

Ayes: Vincent, Merker, Oatfield, Twu, Kahn and Capitelli. Noes: None. Abstain: None. Absent: Marthinsen, Hauser and Owens (6-0-0-3)

Public Comments: 0

Motions/Second/Carried (Merker/Vincent) adjourn the meeting at 7:07 pm.

Ayes: Vincent, Merker, Oatfield, Twu, Kahn and Capitelli. Noes: None. Abstain: None. Absent: Marthinsen, Hauser and Owens (6-0-0-3)

104 **Members in the public in attendance: 3**
105 **Public Speakers: 1**
106 **Length of the meeting: 1 hour 2 minutes**



PUBLIC HEARING
March 5, 2025

Planning and Development Department
Land Use Planning Division

TO: Members of the Planning Commission

FROM: Anne Hersch, Land Use Planning Manager

SUBJECT: Public Hearing: Standard Conditions of Approval

RECOMMENDATION

Staff recommends the Planning Commission hold a public hearing, take public comment, discuss the proposed zoning ordinance amendments and Standard Conditions of Approval (COA) document, and provide a recommendation to the City Council.

CURRENT SITUATION AND ITS EFFECTS

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).

All residential development projects in Berkeley require a discretionary permit through the Zoning Officer (AUP) or Zoning Adjustments Board (UPPH). A discretionary permit is evaluated for compliance with the Zoning Ordinance and other regulatory requirements, is subject to an appeal period before final approval is granted and includes the issuance of Standard Conditions of Approval. The Standard COAs are not currently codified in the Zoning Ordinance.

A Zoning Certificate (ZC) is a ministerial approval, which means it is approved at the staff level and not subject to a public hearing or an appeal period. A ZC application is reviewed to verify compliance with the Zoning Ordinance, and if a project complies with all applicable requirements, the application is approved. Since a ZC is not a

discretionary permit, Conditions of Approval cannot be attached to projects evaluated under this threshold.

All residential projects in Berkeley require a discretionary permit and Standard COAs are issued with the Notice of Decision. The proposed Middle Housing zoning changes would permit most residential development projects with a ZC. If the Zoning Ordinance does not include a reference to Standard Conditions of Approval, residential development projects could be approved and constructed without COAs.

The City of Berkeley currently does not have an adopted COA document that lists the Standard Conditions of Approval. It is a planning best practice, and an advance in transparency and the provision of public information, for the City of Berkeley to prepare and publish such a document.

BACKGROUND

The Land Use Planning Division reviews residential development applications and applies Conditions of Approval as part of the Notice of Decision. The COAs are uniformly applied to qualifying development projects and are included in internal Planning Department working documents and templates for staff reports that are prepared for the Zoning Officer and the Zoning Adjustments Board.

These Standard Conditions of Approval track with a construction schedule and are phased accordingly. Berkeley is unique in that a demolition permit is issued in advance of a building permit to allow for site work to commence while the building permit is in the plan check process. The phases of construction include:

- Prior to Demolition Permit Issuance
- At Building Permit Submittal
- Prior to Building Permit Issuance
- During Construction
- Prior to Final Inspection
- Prior to Certificate of Occupancy Issuance

Standard Conditions of Approval cover a wide range of compliance topic areas, including:

- General Administrative Conditions;
- Construction noise and vibration;
- Construction scheduling, phasing, vehicle parking, and hours of construction;
- Construction air quality, dust and particulate matter controls;
- Hazardous and toxic materials;
- HVAC noise reduction and interior noise level controls;
- Green Building certification;
- Solar PV and battery and EV charging;
- Water efficient landscaping;
- Affordable housing;
- Archeological, paleontological and tribal cultural resources; and
- Stormwater.

The Standard Conditions of Approval are incorporated into a project approval regardless of the project's environmental determination, pursuant to California Environmental Quality Act (CEQA) Guidelines section 15183 "Projects Consistent with a Community Plan, General Plan or Zoning." As applicable, the COAs are applied as requirements to an individual project when the project is approved through a discretionary review process. The City determines which COAs are applied based upon the project's characteristics and location, zoning district, applicable plans, fees required, and type(s) of permit(s)/approvals(s) required for the project.

The proposed Standard Conditions of Approval Document is ***Attachment 1, Exhibit B.***

Archeological Resources

The Planning Department's Standard COAs include conditions related to archaeological resources, including tribal cultural resources. In areas of high archaeological sensitivity, proposed projects are subject to archaeological monitoring measures and other related conditions. Areas of high archaeological sensitivity are indicated on a map that is maintained internally by Planning Department staff, which was last updated in 2002.

At its October 9th, 2024 meeting, the Planning Commission considered a set of General Plan amendments related to the Middle Housing zoning changes. California law requires tribal consultation whenever a jurisdiction proposes to amend its General Plan. As part of the tribal consultation process for the Middle Housing General Plan amendments, tribal representatives requested, and the City of Berkeley funded, an update to our archaeological resources map. This map includes all current locations of

known archaeological finds, as well as indications of areas of the city, and certain geographic features (creekside areas, for example), which might be sites of archaeological sensitivity.

DISCUSSION

Standard Conditions of Approval Document

Attachment 1, Exhibit B includes the proposed Standard Conditions of Approval document. This document includes many improvements on the internal document templates currently used to review and attach conditions. For example, the COAs are organized in a table format and are structured to follow the phases of construction, identify the source of the regulatory requirement, and the responsible agency for the enforcement of each condition.

The need to update the COAs may come from Council legislative efforts, or changes in state, regional, or federal regulations. Staff is recommending that the City Council permit revision of the Standard Conditions of Approval document administratively, without need to return to City Council for each revision.

Proposed Zoning Ordinance Amendments

As noted above, 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 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.

Therefore, staff recommends the following amendment to BMC Section 23.406.020(E), related to review and action on Zoning Certificates:

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.

The language proposed above would authorize the Land Use Planning Division to include Standard Conditions of Approval to development projects approved with a ZC. This includes residential development projects proposed to be approvable with a ZC pursuant to the proposed Middle Housing zoning changes.

NEXT STEPS

Hold a Public Hearing, and advance a recommendation (**Attachment 1**) to the City Council.

CONTACT PERSON

Anne Hersch, Planning and Development Department, 510-981-7476

Attachments:

1. Planning Commission Resolution 2025-01
 - Exhibit A: Zoning Ordinance Amendment
 - Exhibit B: Standard Conditions of Approval Document
2. Public Hearing Notice

ATTACHMENT 1

**PLANNING COMMISSION
RESOLUTION NO. 2025-02**

**A RESOLUTION OF THE CITY OF BERKELEY PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL ADOPT PROPOSED AMENDMENTS TO PERMIT
THE CITY OF BERKELEY TO ATTACH STANDARD CONDITIONS OF APPROVAL TO
PROJECTS APPROVABLE WITH A ZONING CERTIFICATE AND TO ADOPT A
STANDARD CONDITIONS OF APPROVAL DOCUMENT.**

WHEREAS, 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,” and the City routinely imposes standard conditions of approval, regardless of a project’s environmental determination, pursuant, in part, to CEQA Guidelines section 15183; and

WHEREAS, the City of Berkeley’s *2023-2031 Housing Element Update* includes Program 29—Middle Housing, a provision of which is to permit residential development with a Zoning Certificate, which is a ministerial approval; and

WHEREAS, the Planning Department has prepared a Standard Conditions of Approval document to assist the public in understanding the City’s uniformly applied standards and the project characteristics that qualify projects for each condition; and

WHEREAS, referencing this Standard Conditions of Approval Document in the Berkeley Municipal Code is necessary to attach such conditions to projects approved with a Zoning Certificate; and

WHEREAS, on March 5, 2025 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 February 7, 2025 for the public hearing held on March 5, 2025.

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.

WHEREAS, the proposed amendments would have no adverse effect on the environment, and are thereby exempt from CEQA under CEQA Guidelines Section 15061(b)(3).

NOW, THEREFORE, IT BE RESOLVED that the Planning Commission does hereby recommend to the City Council of the City of Berkeley to adopt the amendment to BMC Section 23.406.020(E), contained in **Exhibit A**, attached hereto and hereby incorporated by reference; and be it further

BE IT FURTHER RESOLVED that the Planning Commission does hereby recommend to the City Council of the City of Berkeley to adopt the Standard Conditions of Approval Document, contained in **Exhibit B**, attached hereto and hereby incorporated by reference and recommends that the City Council find and determine that the Standard Conditions or Approval Document are designed to and will substantially mitigate environmental impacts/effects when applied to future projects, and constitute Uniformly Applied Development Standards; and be it further

BE IT FURTHER RESOLVED that the Planning Commission recommends to the City Council of the City of Berkeley that the Planning Director be authorized to periodically revise, clarify, refine and amend the Standard Conditions of Approval Document, consistent with this resolution.

I HEREBY CERTIFY the foregoing resolution was passed and adopted by the Planning Commission of the City of Berkeley, at a regular meeting thereof, held on the 5th day of March 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Justin Horner
SECRETARY TO THE PLANNING COMMISSION

EXHIBIT A
DRAFT
ZONING ORDINANCE AMENDMENTS

ORDINANCE NO. -N.S. PERMIT THE CITY OF BERKELEY TO ATTACH STANDARD
CONDITIONS OF APPROVAL TO PROJECTS APPROVABLE WITH A ZONING
CERTIFICATE

AN ORDINANCE AMENDING TITLE 23 TO

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

Section 1. That Berkeley Municipal Code Section 23.406.020(E) 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 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



Property Address:
Application Number:

APPLICABILITY

Development projects approved through the City of Berkeley are subject to Standard Conditions of Approval (Standard COAs). The City of Berkeley has established Standard COAs that identify requirements for the construction and operation of the approved project. This includes general administrative conditions, permitting requirements, project construction and the regulation of on-going on-site uses. Compliance requirements with the Berkeley Municipal Code, building permit review and issuance process, construction, final inspection requirements, certificate of occupancy, and on-going operations of the approved use are included in this document.

The Standard COAs may vary based on site size, location, environmental settings, topography, historic alteration or approved uses. Variations in the application of the Standard COAs may occur based on the project scope and site-specific characteristics including but not limited to parcel size, location, topography, and use.

Conditions which have specified thresholds due to size, uses, and other characteristics are identified.

Part I. General Administrative Conditions

- A. Project Specific Conditions
- B. Final Approval Conditions

Part II. Prior to Issuance of Demolition Permit

Part III. At the Time of Building Permit Submittal

Part IV. Prior to Issuance of Building Permit

- A. Building & Safety/Land Use Planning
- B. Public Works
- C. Toxics
- D. Health Housing Community Services

Part V. During Demolition/Construction

- A. Building & Safety
- B. Land Use Planning
- C. Public Works
- D. Toxics

Part VI. Prior to Final Inspection

Part VII. Prior to Certificate of Occupancy

Part. VIII. Fees

Part IX. Operational Conditions

- A. Alcoholic Beverage Service
- B. Hot Tubs

Part X. HARD HATS



Property Address:
Application Number:

CONDITIONS OF APPROVAL

I. General Administrative Conditions		Regulation Source	Timing/ Implementation	Enforcement/Monitoring
1.	Project Approval. This Project approval is for site address, as substantially shown and described on the Project plans dated Month, day, year, except as required to be modified by Conditions herein and plans as presented to the Zoning Adjustments Board on Month, day, year ("Approval Date."). This Project vested on Month, day, year through PLN2025-xxxx. For any Condition herein that requires preparation of a Final Plan where the project applicant has submitted a conceptual plan, the Project applicant shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the Conditions herein for approval by the City.	City of Berkeley	On-Going	Land Use Planning
2.	Approval Limited to Proposed Project and Replacement of Existing Uses. This Permit authorizes only the proposed Project described in the application. In no way does an approval authorize other uses, structures or activities not included in the Project Description. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use. (BMC Sections 23.404.060.B.1 and 2)	City of Berkeley BMC Sections 23.404.060	On-Going	Land Use Planning
3.	Compliance Required. All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.	City of Berkeley BMC Section 23.102.050	On-Going	Land Use Planning
4.	Conformance to Approved Plans. All work performed under an approved permit shall follow the approved plans and any Conditions of Approval.	City of Berkeley BMC Section 23.404.060.	On-Going	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

I. General Administrative Conditions		Regulation Source	Timing/ Implementation	Enforcement/Monitoring
5.	Permit Modifications. No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Adjustments Board. The Zoning Officer may approve changes to plans approved by the Board which reduce the size of the Project, consistent with the Board's policy adopted on May 24, 1978.	City of Berkeley BMC Section 23.404.070	On-Going	Land Use Planning
6.	Permit Revocation. The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board, or City Council referral.	City of Berkeley BMC Section 23.404.080	On-Going	Land Use Planning
7.	Permit Remains Effective for Vacant Property. Once a permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard COA #5 above.	City of Berkeley BMC Section 23.404.060	On-Going	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

I. General Administrative Conditions		Regulation Source	Timing/ Implementation	Enforcement/Monitoring
8.	Exercise and Expiration of Permits A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property. A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property. B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun. C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the Zoning Adjustments Board in accordance with Chapter 23.410 (Appeals and Certification). D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.	City of Berkeley BMC Section 23.404.060 (C)	On-Going	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

I. General Administrative Conditions		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/Monitoring</u>
9.	Hold Harmless. The permittee agrees as a Condition of Approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.	City of Berkeley	On-Going	Land Use Planning
10.	Compliance with Conditions of Approval and Environmental Mitigations. The Building Permit application is subject to verification of compliance of these Conditions of Approval and any applicable Mitigation Measures. The applicant shall be responsible for demonstrating compliance with all Conditions of Approval per the timeline set forth by this Permit.	City of Berkeley	On-Going	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

I. General Administrative Conditions		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/Monitoring</u>
11.	Demolition. Demolition of the existing building cannot commence until a complete application is submitted for the replacement building. In addition, all plans presented to the City to obtain a permit to allow the demolition are subject to these Conditions of Approval.	City of Berkeley	On-Going	Building & Safety/ Land Use Planning
12.	Wage Theft Prevention. For new buildings greater than 30,000 sq. ft. and without a Labor Agreement, the requirements of Sections 13.104.030 through 13.104.050 shall be included as Conditions of Approval of any Use Permit or Zoning Certificate for any project that is subject to this Chapter. Failure to comply with the requirements of any provision of this Chapter shall be grounds for issuance of an administrative citation under Chapter 1.28 and/or the revocation or modification of any permit issued for the Project under BMC Chapter 23.404. Applies to: [New bldgs. > 30k sq.ft. no Labor Agreement]	City of Berkeley BMC Section 13.104.060	On-Going	Building & Safety/ Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

A. Project Specific Conditions		<u>Regulation Source</u>	<u>Timing/Implementation</u>	<u>Enforcement/ Monitoring</u>
1.	Pursuant to BMC 23.404.050(H), the Zoning Adjustments Board attaches the following additional Conditions of Approval to this Permit:	City of Berkeley BMC Section 23.040.050		
B. Final Approval Conditions		<u>Regulation Source</u>	<u>Timing/Implementation</u>	<u>Enforcement/ Monitoring</u>
1.	Final Design Review at Landmarks Preservation Commission (LPC). The Project requires approval of a Final Design Review application by the Landmarks Preservation Commission.	City of Berkeley	Prior to Building Permit Submittal	Land Use Planning
2.	Final Design Review at the Design Review Committee (DRC). The Project requires approval of a Final Design Review application by the Design Review Committee.	City of Berkeley	Prior to Building Permit Submittal	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

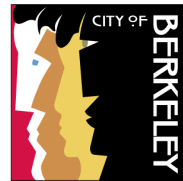
II. Prior to Issuance of Demolition Permit		<u>Regulation Source</u>	<u>Timing/Implementation</u>	<u>Enforcement/Monitoring</u>
1.	Conditions of Approval on Building Permit Plan Submittal A. Use Permit. The Conditions of Approval for this Permit shall be printed on the second sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Use Permit Conditions.' B. Structural Alteration Permit. The Conditions of Approval for the Structural Alteration Permit shall be printed on the second sheet of each plan set submitted for a building permit under the title of "Structural Alteration Permit Conditions." <i>Additional sheets may also be used if the second sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; (8-1/2" by 11" sheets are not acceptable)</i>	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning
2.	Project Liaison. The applicant shall include in all building permit plans and post onsite the name, e-mail address, and telephone number of an individual empowered to manage construction-related complaints generated from the Project. The individual's name, telephone number, and responsibility for the Project shall be posted at the project site for the duration of the Project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. Please designate the name of this individual below: ☐ Project Liaison _____ Name Phone #	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning
3.	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	City of Berkeley	Prior to Demolition Permit Issuance (At least Two Weeks Prior	Building & Safety Division



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	provide the following: (1) Project Description, (2) description of construction activities during extended work hours and reason for extended hours, (3) daily construction schedule (i.e., time of day) and expected duration (number of months), (4) the name, e-mail, and phone number of the Project Liaison for the Project that is responsible for responding to any local complaints, and (5) 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.		to Construction Commencement)	
4.	Construction Phases. The applicant shall provide the Zoning Officer with a schedule of major construction phases with start dates and expected duration, a description of the activities and anticipated noise levels of each phase, and the name(s) and phone number(s) of the individual(s) directly supervising each phase. The Zoning Officer or their designee shall have the authority to require an on-site meeting with these individuals as necessary to ensure compliance with these Conditions of Approval. The applicant shall notify the Zoning Officer of any changes to this schedule as soon as possible.	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning
5.	HVAC Noise Reduction. Prior to the issuance of building permits, the Project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.	City of Berkeley BMC Section 13.40.050	Prior to Demolition Permit Issuance	Building & Safety/Land Use Planning
6.	Condition and Compliance Monitoring. The applicant shall pay a \$22,000 deposit for the cost of monitoring compliance with the Conditions of Approval and other applicable conditions and regulations prior to issuance of building permit. <u>City staff shall obtain a scope and cost from a pre-approved consultant to conduct required monitoring.</u>	City of Berkeley	Prior to Demolition Permit Issuance	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	<u>compliance</u> . If compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses <u>prior to the initiation of monitoring compliance</u> . The City shall not issue a notice-to-proceed until all funds are <u>deposited</u> . Any unused deposit will be refunded to the applicant.			
7.	Erosion Prevention Plan. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season, the applicant shall obtain approval of an erosion prevention plan from the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety/Public Works
8.	Construction and Demolition Diversion. The applicant shall submit a Construction Waste Management Plan that meets the requirements of BMC Chapter 19.37 "Berkeley Green Code" including 100 percent diversion of asphalt, concrete, excavated soil and land-clearing debris and a minimum of 65 percent diversion of other nonhazardous construction and demolition waste.	City of Berkeley BMC Chapter 19.37	Prior to Demolition Permit Issuance	Building & Safety/Public Works
9.	Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527). A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for all new commercial, industrial and mixed-use developments, all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: City of Berkeley Community GIS Portal (arcgis.com) Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to Toxics Management Division.	City of Berkeley	Prior to Demolition Permit Issuance	Toxics Management Division
10.	Construction Noise Reduction Program. The applicant shall develop a site-specific noise reduction program prepared by a qualified acoustical consultant to reduce construction	City of Berkeley BMC Section	Prior to Demolition Permit Issuance	Zoning Officer



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	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. 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. 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. I. Route construction related traffic along major roadways and away from sensitive receptors where feasible.	13.40.070		
11.	Damage Due to Construction Vibration. The Project applicant shall submit screening level analysis prior to 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	City of Berkeley	Prior to Demolition Permit Issuance	Building & Safety Division/Zoning Officer



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	(assessment). The assessment shall account for 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 to 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.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

III. At the Time of Building Permit Submittal		Regulation Source	Timing/Implementation	Enforcement/Monitoring
1.	Green Building Certification. The applicant shall submit documentation demonstrating that the building will attain LEED Gold or higher, or attain a building performance equivalent to this rating that has been approved by the Zoning Officer for this Project. Documentation shall include proof of payment of the registration/application fee to the organization administering the green building certification system (e.g. USGBC/GBCI for LEED, Build It Green for GreenPoint Rated, etc.), a copy of the updated green building checklist that reflects anticipated points, and a statement from the appropriate project team professional (e.g. LEED Accredited Professional, GreenPoint Rater, etc.) verifying that the Project is on track for certification at the required level or above. The submitted green building checklist must be a type that is appropriate for the Project and a version that is being accepted by the organization granting the green building certification at the time of building permit submittal. Whenever applicable, measures from the green building checklist shall be incorporated and noted on site plans. Applies to: "CDMU only - New buildings, or additions of more than 20,000 sf)"	City of Berkeley	At the Time of Building Permit Submittal	Building & Safety/Land Use Planning
2.	Public Works ADA. Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.	City of Berkeley	At Building Permit Submittal	Public Works
3.	Public Works – Stormwater Pollution Prevention Program (SWPPP). As part of the building permit submittal, the applicant shall submit the following documents to the Public Works Department for review:	City of Berkeley	At Building Permit Submittal	Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	A. A copy of the "Notice of Intent" filed with the State Water Resources Control Board (SWRCB)/Division of Water Quality; B. The Waste Discharger Identification (WDID) number issued by the SWRCB for the Project; C. A copy of the SWPPP prepared for each phase of the Project; and D. The name of the individual who will be responsible for monitoring the site for compliance to the approved SWPPP. Construction must comply with the statewide general permit requiring owner to: (1) notify the State; (2) prepare and implement a SWPPP; and (3) monitor the effectiveness of the SWPPP. Additional information may be found online at http://www.swrcb.ca.gov. Applies to: "(Construction activities that involve one or more acre)"			
4.	National Pollution Discharge Elimination System (NPDES). The applicant shall demonstrate compliance with the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply: A. The Project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions. B. Trash enclosures and/or recycling areas shall be covered, and no other areas shall drain onto these areas. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and the East Bay Municipal Utility District (EBMUD) for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.	City of Berkeley BMC Section 17.20	At Building Permit Submittal	Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

C. Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans. D. Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be shall be conducted prior to the issuance of a building permit. E. All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants. F. All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the Project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Department.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

G. All private or public projects that create and/or replace 5,000 / 10,000 square feet or more of impervious surface must comply with Provision C.3 of the NPDES permit and must incorporate stormwater controls to enhance water quality. Permit submittals shall include a Stormwater Requirement Checklist and detailed information showing how the proposed Project will meet Provision C.3 stormwater requirements, including a) Site design measures to reduce impervious surfaces, promote infiltration, and reduce water quality impacts; b) Source Control Measures to keep pollutants out of stormwater runoff; c) Stormwater treatment measures that are hydraulically sized to remove pollutants from stormwater; d) An O & M (Operations and Maintenance) agreement for all stormwater treatment devices and installations; and e) Engineering calculations for all stormwater devices (both mechanical and biological). (Project required to meet applicable code at time of building permit application, if different from above.) Applies to "(delete if less than 10k SF site)" H. All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City. I. Washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge of soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the East Bay Municipal Utility District. J. All loading areas must be designated to minimize run-on or run-off from the area. Accumulated wastewater that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

	K. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge. L. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order. M. Restaurants, where deemed appropriate, must be designed with a contained area for cleaning mats, equipment and containers. This contained wash area shall be covered or designed to prevent run-on or run-off from the area. The area shall not discharge to the storm drains; wash waters should drain to the sanitary sewer, or collected for ultimate disposal to the sanitary sewer. Employees shall be instructed and signs posted indicating that all washing activities shall be conducted in this area. Sanitary connections are subject to the review, approval and conditions of the waste water treatment plant receiving the discharge. "(delete if not food service)"			
5.	Streets and Open Space Improvement Plan (SOSIP) Street Frontage Improvements. Consistent with the Downtown Streets and Open Space Improvement Plan (SOSIP) (or subsequent iterations as adopted by the City), the developer shall construct improvements along "(enter names of streets along frontage)" to the centerline. Such improvements shall be included with the building permit submittal, designed and constructed as directed by the Public Works Engineering Division, the Public Works Transportation Division, and the Fire Department, and constructed prior to certificate of occupancy. At the discretion of the City Engineer, the developer may be required to pay a fee in lieu of certain improvements as specified in COA #___, below. "(CDMU only)" Delete if not applicable	City of Berkeley	At Building Permit Submittal	Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

IV. Prior to Issuance Building Permit: A. Building & Safety/Land Use Planning		<u>Regulation Source</u>	<u>Timing/Implementation</u>	<u>Enforcement/Monitoring</u>
1.	Acoustic Report. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the Project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard.	City of Berkeley	Prior to Building Permit Issuance	Building & Safety/Land Use Planning
2.	Interior Noise Levels. Prior to issuance of a building permit, the applicant shall submit a report to the Building and Safety Division and the Zoning Officer by a qualified acoustic engineer certifying that the interior residential portions of the Project will achieve interior noise levels of no more than 45 Ldn (Average Day-Night Levels). If the adopted Building Code imposes a more restrictive standard for interior noise levels, the report shall certify compliance with this standard. New residential uses in areas over 65dB on <u>General Plan Noise Map</u> (see pg 6)	City of Berkeley	Prior to Building Permit Issuance	Building & Safety/Land Use Planning
3.	Live/Work Units. Prior to the issuance of building permits, the live/work units shall comply with the following standards: A. Adequate and clearly defined working space constituting no less than 50 percent of the gross floor area of the live/work unit is required. B. The working space must be reserved for and regularly used by one or more live/work unit residents and be consistent with City administrative guidelines for live/work design. C. At least one resident in each live/work unit shall maintain at all times a valid City Business License and Zoning Certificate or Use Permit for a business on the premises.	City of Berkeley	Prior to Building Permit Issuance	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	D. <i>Employment, Client, and Customer Visits.</i> Persons who do not live in the live/work unit may be employed in a live/work unit if an additional Use Permit is obtained and the required on-site parking space is provided, and client and customer visits to live/work units are permitted if an additional Use Permit is obtained and the required on-site parking is provided. E. <i>Unit Rental and Sale.</i> No portion of a live/work unit may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises. F. (MU-LI only) At least one resident in the live/work unit must be engaged in an Art/Craft Studio use activity or in an activity which requires space not typically available in a conventional residential setting. G. (MU-LI only) The applicant shall state the specific activity a live/work resident will engage and provide tenant notification, via a lease rider and deed restriction, that each live/work unit is located in the MU-LI District and that the tenants shall only engage in the occupations listed in the definitions of Art/Craft Studios. H. (MU-LI and MU-R only) The applicant shall record with the County Recorder a statement acknowledging that the live/work unit is established in a district where manufacturers and other industries operate lawfully and that the applicant will not seek to impede their lawful operation. In addition, the applicant will require any tenants to sign such a statement, and require all persons purchasing live/work units to sign and record such a statement.			
4.	Pay Transparency Acknowledgement. Prior to the issuance of a building permit for any Project subject to this Chapter: A. A Responsible Representative of the permittee shall certify under penalty of perjury that: (1) the permittee has reviewed Chapter 13.104 of the Berkeley Municipal Code; and (2) the permittee will be responsible for demonstrating compliance with this Chapter.	City of Berkeley BMC Section 13.104.030	Prior to Building Permit Issuance	Building & Safety



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	B. The permittee shall provide to the City a Contractor Pay Transparency Acknowledgment on a form approved by the City for this purpose. A Responsible Representative of the permittee shall certify under penalty of perjury that the contractor and all Qualifying Subcontractors performing work on the Project will comply with Chapter 13.104 of the Berkeley Municipal Code and with Labor Code sections 226(a) and 2810.5 for each employee who works on the Project. Applies to: New bldgs. > 30k sq.ft. no Labor Agreement			
5.	Construction Meeting. The applicant shall request of the Zoning Officer an on-site meeting with City staff and key parties involved in the early phases of construction (e.g., applicant, general contractor, foundation subcontractors) to review these Conditions of Approval and the construction schedule. The general contractor or applicant shall ensure that all subcontractors involved in subsequent phases of construction aware of the Conditions of Approval. Applies to: 4 stories/20 units	City of Berkeley	Prior to Building Permit Issuance	Zoning Officer
6.	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 either A or B, and C: 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 the Bay Area Air District and the California Office of Environmental Health Hazard Assessment. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or	City of Berkeley	Prior to Building Permit Issuance	Land Use Planning/ Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	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. C. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following: i. 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. ii. 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.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

IV. Prior to Issuance of Building Permit: B. Public Works		Regulation Source	Timing/ Implementation	Enforcement/Monitoring
1.	Transportation Construction Plan. The applicant and all persons associated with the Project are hereby notified that a Transportation Construction Plan (TCP) may be required, particularly for the following activities: A. Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes); B. Storage of building materials, equipment, dumpsters, debris anywhere in the public right of way; C. Provision of exclusive contractor parking on-street; or D. Significant truck activity. Please contact the Department of Public Works Transportation Division at (510) 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 stamped and signed by a registered engineer prior to submittal. The TCP shall be consistent with any other requirements of the construction phase. A current copy of the TCP shall be available at all times at the construction site for review by City Staff. Applies to Large Projects Only (4 stories/20 units; unless needed due to street conditions)	City of Berkeley	Prior to Building Permit Issuance	Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

IV. Prior to Issuance of Building Permit: C. Toxics		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/Monitoring</u>
1.	Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals. If asbestos is identified, Bay Area Air 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. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. § 1529, § 341.6 et seq.) The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to the TMD within 30 days of the completion of the demolition.	City of Berkeley	Prior to Issuance of Building Permit	Toxics Management Division



Property Address:
Application Number:

CONDITIONS OF APPROVAL

2.	Environmental Site Clearance. Prior to issuance of any building permits, the applicant shall submit to the Toxics Management Division (TMD) an environmental screening clearance to ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Documentation in the form of a letter shall be provided from one of the following external agencies: • San Francisco Bay Regional Water Quality Control Board (RWQCB); • California Department of Toxic Substances Control (DTSC); or • The Alameda County Department of Environmental Health's Local Oversight Program (LOP).	City of Berkeley	Prior to Issuance of Building Permit	Toxics Management Division
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

	IV. Prior to Issuance of Building Permit: D. Health, Housing & Community Services (HHCS)	Regulation Source	Timing/ Implementation	Enforcement/Monitoring
1.	Affordable Housing Regulatory Agreement. Prior to the issuance of building permit, the applicant shall submit the Regulatory Agreement to the Department of Health, Housing and Community Services (HHCS) via email to affordablehousing@berkeleyca.gov for review and approval. The applicant shall enter into a Regulatory Agreement that implements Government Code Section 65915 and this Permit should they elect to provide Below Market Rent (BMR) units to avoid or reduce their Affordable Housing Mitigation Fee obligation. The Regulatory Agreement shall include any terms and affordability standards determined by the City to be necessary to ensure such compliance. Affordability is set forth in the following paragraphs of this Condition of Approval. Very Low Income: The maximum qualifying household income for very low income BMR Units shall be 50% of Area Median Income (AMI), and their maximum housing payment shall be 30% of 50% of AMI. If the BMR units are occupied by Very Low-Income tenants receiving a rental subsidy through the Section 8 or Shelter Plus Care programs, the rent received by the Project sponsor may exceed the restricted rent to the payment standards allowed under those programs so long as the rent allowed under the payment standards is not greater than the market rents charged for comparable units in the development. Low Income. The maximum qualifying household income for low income BMR units shall be 80% AMI, and their maximum housing payment shall be 30% of 80% of AMI for Low-Income households.	City of Berkeley	Prior to Issuance of Building Permit	Health, Housing and Community Services
2.	Affordable Housing Mitigation Fee. Consistent with BMC Section 22.20.065, and fee resolution applicable to this Project, the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the Affordable Housing Mitigation Fee, and they shall pay this fee. Applies to : "(vested on/before April 1, 2023/ DB projects included)"	City of Berkeley BMC Section 22.20.065	Prior to Issuance of Building Permit	Health, Housing and Community Services



Property Address:
Application Number:

CONDITIONS OF APPROVAL

3.	Affordable Housing Mitigation Fee No Below Market Rate Units. For projects that do not provide any below market rate (BMR) rental dwelling units the applicant shall pay the Affordable Housing Mitigation Fee as calculated pursuant to BMC Section 22.20.065(D) prior to issuance of the first building permit for the Project. Projects vested on/before April 1, 2023 with 5 or more dwellings that are to be rented)	City of Berkeley	Prior to Issuance of Building Permit	Health, Housing and Community Services
4.	Affordable On-Site Units. The applicant may elect to option out of the Affordable Housing Mitigation Fee by providing, for the life of the Project, a number of units equal to 20 percent of the total units in the Project at rental rates affordable to Low-Income and Very Low-Income Households in accordance with the BMC. The applicant may also elect to provide Below Market Rent units below 20 percent of total units for a reduced AHMF as calculated in BMC Section 22.20.065(D). The applicant must contact and coordinate with the Department of Health, Housing and Community Services (HHCS) via email to affordablehousing@berkeleyca.gov for review and approval. The final number of affordable onsite units must be declared prior to issuance of the first building permit for the Project.	City of Berkeley	Prior to Issuance of Building Permit	Health, Housing and Community Services
5.	Number of Below Market Rate Units. The Project shall provide xx (Very Low-Income) below market rate rental dwelling units (BMR Units), which are required to comply with the State Density Bonus Law (Government Code Section 65915). The BMR Units shall be designated in the Regulatory Agreement and shall be reasonably dispersed throughout the Project; be of the same size and contain, on average, the same number of bedrooms as the non-BMR units in the Project; and be comparable with the design or use of non-BMR units in terms of appearance, materials and finish quality. The designation of BMR Units shall conform to the addresses assigned to the building by the City.	City of Berkeley/ State of California	Prior to Issuance of Building Permit	Health, Housing and Community Services



Property Address:
Application Number:

CONDITIONS OF APPROVAL

V. During Demolition/Construction A. Building & Safety		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/Monitoring</u>
1	Construction Hours. 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.	City of Berkeley	During Demolition/Construction	Building & Safety
2.	Construction Hours Exceptions. It is recognized that certain construction activities, such as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the Project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval. The Project shall not be allowed more than 15 extended working days.	City of Berkeley	During Demolition/Construction	Building & Safety
3.	Project Construction Website. The applicant shall establish a project construction website with the following information clearly accessible and updated monthly or more frequently as changes warrant: • Contact information (i.e. "hotline" phone number, and email address) for the Project construction manager • Calendar and schedule of daily/weekly/monthly construction activities • The final Conditions of Approval, Mitigation Monitoring and Reporting Program, Transportation Construction Plan, Construction Noise Reduction Program, and any other reports or programs related to construction noise, air quality, and traffic.	City of Berkeley	During Demolition/Construction	Building & Safety
4.	Construction / No Parking Permits. Contact the Permit Service Center at 1947 Center Street, Third Floor or (510) 981-7500 for details on obtaining Construction/No Parking Permits (and	City of Berkeley	During Demolition/Construction	Building & Safety



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	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 the Transportation Construction Plan shall be available at all times at the construction site for review by City Staff.			
5.	Low-Carbon Concrete. The Project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)	City of Berkeley BMC Chapter 19.37	During Demolition/ Construction	Building & Safety



Property Address:
Application Number:

CONDITIONS OF APPROVAL

V. During Demolition/Construction: B. Land Use Planning		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/Monitoring</u>
Conditions 1 and 2 apply to projects that include ground disturbance on parcels indicated on the City's Archeological Sensitivity Map				
1.	Archeological Resources Monitoring. A. Qualified Archaeologist. The Project applicant shall retain a Registered Professional Archeologist (Archeologist) prior to excavations or ground disturbance in sensitive areas. The Archeologist shall direct all measures related to archaeological resources. B. Worker Environmental Awareness Program (WEAP). Prior to ground disturbance, the applicant shall incorporate information on archeological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Archeological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Archeologist or their designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying archaeological staff should fossils be discovered by construction staff. The Archeological WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which the Archeologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work. C. Archaeological Monitoring. Ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of the Archeologist. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area shall halt, the City shall be notified, and the find shall be evaluated for significance. Archaeological monitoring may be reduced or halted at the discretion of the monitor as warranted by conditions such as encountering	City of Berkley	Prior to Ground Disturbance During Demolition and Construction	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	bedrock, ground disturbance is occurring in fill, or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the Project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). D. In the event of an archaeological find by the archaeological monitor or construction personnel, all work in the immediate area and within a minimum of 50 feet of the discovery shall halt and the Archaeologist shall evaluate the find for significance. Construction activities can continue with an archaeological monitor in areas outside of the exclusion zone and not associated with the cultural resource location. Dependent upon the extent of the find, evaluation may require the implementation of a Phase II subsurface testing program to determine resource boundaries, assess the integrity of the resource, and evaluate the resource's significance through a study of its features and artifacts. If the resource is determined not to be significant, no further archaeological investigation or mitigation shall be required. If the resource is determined to be significant and cannot be avoided, the results and recommendations of the Phase II study shall determine the need for additional treatment, such as a Phase III data recovery program designed to record and remove significant cultural materials that could otherwise be tampered with or disturbed by project construction. If a Phase III data recovery program is warranted, a Cultural Resources Data Recovery Plan shall be developed by the qualified archaeologist to outline excavation and laboratory procedures. The plan shall be submitted to the City for review and approval prior to proceeding. Disposition of collected cultural materials shall be determined on a case-by-case basis and may include but would not be limited to curation, reburial, and/or repatriation. E. Final Archaeological Mitigation Report. Upon completion of ground disturbing activity the Archaeologist shall prepare a final report describing the results of the archeological monitoring efforts associated with the Project, including a description of finds made during construction and reporting of the methods and results of			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

	archaeological excavation. The report shall be submitted to the Department of Planning and Development at the City of Berkeley and to the Northwest Information Center. If the monitoring efforts produced cultural materials, then a copy of the report shall also be submitted to the designated curation facility if applicable.			
2.	Paleontological Resource Monitoring. Applies to projects that include excavation or ground disturbance that exceeds 3 feet in depth on parcels indicated on the City's Paleontological Sensitivity Map A. Qualified Paleontologist. The Project applicant shall retain a qualified paleontologist (Paleontologist) prior to excavations or ground disturbance that will exceed three feet in depth. The Qualified Paleontologist shall direct all mitigation measures related to paleontological resources. A Paleontologist is defined by the SVP standards as an individual preferably with an M.S. or Ph.D. in paleontology or geology who is experienced with paleontological procedures and techniques, who is knowledgeable in the geology of California, and who has worked as a paleontological mitigation project supervisor for a least two years (SVP 2010). B. Worker Environmental Awareness Program (WEAP). Prior to ground disturbance, the applicant shall incorporate information on paleontological resources into the Project's Worker Environmental Awareness Training (WEAP) materials, or a stand-alone Paleontological Resources WEAP shall be submitted to the Department of Planning and Development at the City of Berkeley. The Paleontologist or their designee shall conduct training for construction personnel regarding the appearance of fossils and the procedures for notifying paleontological staff should fossils be discovered by construction staff. The WEAP training shall be fulfilled simultaneously with the overall WEAP training, or at the first preconstruction meeting at which a Paleontologist attends prior to ground disturbance. Printed literature (handouts) shall accompany the initial training. Following the initial WEAP training, all new workers and contractors must be trained prior to conducting ground disturbance work.			



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	C. Paleontological Monitoring. The extent of required paleontological monitoring for the Project shall be determined by the Paleontologist based on an evaluation of the previously undisturbed geologic units exposed during ground disturbing activity. The Paleontologist shall conduct an initial spot check and evaluation of geologic conditions for ground disturbing activity for excavations between 5-10 feet below ground surface (BGS). The evaluation shall be based on field evidence including lithology of geologic units and results of micro-screening or other inspections for fossil resources. If the Paleontologist determines that geologic units exposed between 5-10 feet BGS have high paleontological sensitivity, then full-time monitoring shall be conducted for the duration of ground disturbing activity. If sediments between 5-10 feet BGS are determined to not be paleontological sensitive, spot checks should be conducted again for ground disturbance between 10-15 feet BGS and again for ground disturbance between 15-20 feet BGS, and again to the full depth of ground disturbance. If spot checks indicate low or no paleontological sensitivity, or if full time monitoring results in no fossil discoveries once the full depth of ground disturbance has been reached, paleontological monitoring can be discontinued for the remainder of project activity. Monitoring shall be reinstated if any new ground disturbances are required to depths exceeding previous depths of previous work, and reduction or suspension shall be reconsidered by the Paleontologist at that time. D. 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 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 Paleontologist shall complete the following Conditions or Approval to mitigate impacts to significant fossil resources: 1) Salvage of Fossils. If fossils are discovered, the paleontological monitor shall have the authority to halt or temporarily divert construction equipment within 50 feet of the find until the monitor and/or the Paleontologist evaluate the discovery			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

	and determine if the fossil may be considered significant. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case, the construction contractor may be requested to supply heavy equipment and an operator to assist in the rapid removal of a large fossil specimen(s) or sediment sample(s). Bulk matrix sampling may be necessary to recover small invertebrates or micro-vertebrates from within paleontologically-sensitive Quaternary alluvial deposits. 2)Preparation and Curation of Recovered Fossils. Once salvaged, significant fossils shall be identified to the lowest possible taxonomic level, prepared to a curation-ready condition, and curated in a scientific institution with a permanent paleontological collection (such as the UCMP), along with all pertinent field notes, photos, data, and maps. Fossils of undetermined significance at the time of collection may also warrant curation at the discretion of the Paleontologist. E. Final Paleontological Mitigation Report. Upon completion of ground disturbing activity (and curation of fossils if necessary) the 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's 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 Department of Planning and Development at the City of Berkeley. If the monitoring efforts produced fossils, then a copy of the report shall also be submitted to the designated museum repository.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

3.	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 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 and the California Fish & Game Code, 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.	City of Berkeley	During Demolition/Construction	Land Use Planning
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

4.	Unanticipated Discovery of Paleontological Resources. In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified archeologist (per Secretary of Professional Qualification Standards National Park Service 1983). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find. The archeologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the archeologist shall prepare an excavation plan for mitigating the effect of the Project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.	City of Berkeley	During Demolition/Construction	Land Use Planning
5.	Unanticipated Discovery of Tribal Cultural Resources. In the event that Tribal Cultural Resources are identified during construction, all work within 50 feet of the discovery shall be redirected. The Project applicant and Project construction contractor shall notify the Land Use Planning Division within 24 hours. The City will contact any tribes who have requested consultation under AB 52, as well as contact a qualified archaeologist, to evaluate the resources and situation and provide recommendations. If it is determined that the resource is a Tribal Cultural Resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with State guidelines and in consultation with Native American groups. If the resource cannot be avoided, additional measures to avoid or reduce impacts to the resource and to address tribal concerns may be required.	City of Berkeley	During Demolition/Construction	Land Use Planning
6.	Unanticipated Discovery of Archeological Resources (Delete if no ground disturbance). Pursuant to CEQA Guidelines section 15064.5(f), "provisions for historical or unique paleontological resources accidentally discovered during construction" should be instituted. Therefore:	City of Berkeley	During Demolition/Construction	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	A. In the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within a minimum of 50 feet of the resources shall be halted and the Project applicant and/or lead agency shall consult with a Registered Professional Archeologist or paleontologist, and the culturally-affiliated California Native American Tribe ("Tribe") to assess the significance of the find. B. If any find is determined to be significant, representatives of the Project proponent and/or the lead agency and the Tribe shall meet to determine the appropriate avoidance measures or other appropriate measures to mitigate impacts to the Tribal Cultural Resource., C. In considering any suggested measure proposed by the Registered Professional Archeologist, the Tribe and the lead agency shall confer and such consultation will be considered concluded when either of the following occurs: (1) the parties agree to mitigation measures to mitigate or avoid a significant effect, if a significant effect exists, on a Tribal Cultural Resource or (2) A party, acting in good faith after reasonable effort, concludes that mutual agreement cannot be reached. D. If avoidance is unnecessary or infeasible, other appropriate measures such as removal and reburial of the Tribal Cultural Resource in an alternate location with tribal cultural monitor such as removal and reburial of the Tribal Cultural Resource in an alternate location with tribal cultural monitors may 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 Registered Professional Archeologist shall prepare a report on the findings for submittal to the Northwest Information Center.			
7.	Discovery of Human Remains. In the event that human skeletal remains are uncovered at the Project site 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			



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this section, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants' preferences for treatment. A. The descendants' preferences for treatment may include the following: i. The nondestructive removal and analysis of human remains and items associated with Native American human remains. ii. Preservation of Native American human remains and associated items in place. iii. Relinquishment of Native American human remains and associated items to the descendants for treatment. iv. Other culturally appropriate treatment. B. The parties may also mutually agree to extend discussions, taking into account the possibility that additional or multiple Native American human remains, as defined in this section, are located in the Project area providing a basis for additional treatment measures. C. For the purposes of this section, "conferral" or "discuss and confer" means the meaningful and timely discussion and careful consideration of the views of each party, in a manner that is cognizant of all parties' cultural values, and where feasible, seeking agreement. Each party shall recognize the other's needs and concerns for confidentiality of information provided to the other. i. Human remains of a Native American may be an inhumation or cremation, and in any state of decomposition or skeletal completeness.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

	ii. Any items associated with human remains that are placed or buried with Native American human remains are to be treated in the same manner as the remains, but do not by themselves constitute human remains. D. Whenever the commission is unable to identify a descendant, or the descendants identified fail to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the descendants and the mediation provided for in subdivision (k) of Public Resources Code Section 5097.94, if invoked, fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall inter the human remains and items associated with Native American human remains with appropriate dignity on the property in a location not subject to further and future subsurface disturbance. To protect these sites, that landowner shall do one or more of the following: i. Record the site with the commission or the appropriate Information Center. ii. Utilize an open-space or conservation zoning designation or easement. ii. Record a document with the county in which the property is located. F. Upon the discovery of multiple Native American human remains during a ground disturbing land development activity, the landowner may agree that additional conferral with descendants is necessary to consider culturally appropriate treatment of multiple Native American human remains. Culturally appropriate treatment of such a discovery may be ascertained from review of the site utilizing cultural and archaeological standards. Where the parties are unable to agree on the appropriate treatment measures the human remains and buried with Native American human remains shall be reinterred with appropriate dignity, pursuant to subdivision (e). G. Per State law, any action taken to implement an agreement developed pursuant to this Condition of Approval shall be exempt from the CEQA.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

8.	Posting of Wage Theft Ordinance (BMC Section 13.104.050). Each day work is performed on the Project, each permittee shall post, and keep posted in a conspicuous location where it may be easily read by employees during the hours of the workday, a notice that: (A) contains the text of Chapter 13.104 of the BMC; (B) explains that workers can report violations of Labor Code sections 226 and 2810.5 to the Labor Commissioner of the State of California; and (C) provides current contact information, including office address, telephone number, and email address of the Labor Commissioner of the State of California. [New bldgs. > 30k sq.ft. no Labor Agreement] (Delete if not applicable)	City of Berkeley BMC Section 13.104.050	During Demolition/Construction	
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

V. During Demolition/Construction: C. Public Works		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>
1.	Debris. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.	City of Berkeley	During Construction	Public Works
2.	Excavation. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.	City of Berkeley	During Construction	Public Works
3.	Sandbags. The Project sponsor shall maintain sandbags or other devices around the site perimeter during the rainy season to prevent on-site soils from being washed off-site and into the storm drain system. The Project sponsor shall comply with all City ordinances regarding construction and grading.	City of Berkeley	During Construction	Public Works
4.	Fire Hydrant. The removal or obstruction of any fire hydrant shall require the submission of a plan to the City's Public Works Department for the relocation of the fire hydrant during construction.	City of Berkeley	During Construction	Public Works
5.	Underground Utilities. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.	City of Berkeley	During Construction	Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

V. During Demolition/Construction: C. Public Works		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>
6.	Public Works - Implement Bay Area Air District Recommended Measures during Construction. For all proposed projects, the Bay Area Air District recommends implementing all the Basic Construction Mitigation Measures, listed below to meet the best management practices threshold for fugitive dust: A.All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. B. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. C. 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. D. All vehicle speeds on unpaved roads shall be limited to 15 mph. E. 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. F. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.	City of Berkeley/ Bay Area Air District	During Construction	Public Works



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	G. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified visible emissions evaluator. H. 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 Bay Area Air District's phone number shall also be visible to ensure compliance with applicable regulations. "(Keep unless already stated in the MMRP)"			
V. During Demolition/Construction: D. Toxics		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring
1.	Hazardous Materials Business Plan. A Hazardous Materials Business Plan in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: http://cers.calepa.ca.gov/ for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required for facilities that store or handle hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.	City of Berkeley/State of California BMC Section 15.12.040	During Construction	Toxic Management Division



Property Address:
Application Number:

CONDITIONS OF APPROVAL

VI. Prior to Final Inspection		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring
1.	Address Assignment. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (1947 Center Street) for any address change or new address associated with this Permit. The new address(es) shall be assigned in accordance with BMC 16.28.030, and entered into the City's database after the building permit is issued but prior to final inspection.	City of Berkeley BMC 16.28.030	Prior to Final Inspection	Land Use Planning
2.	[New bldgs. > 30k sq.ft. no Labor Agreement] Pay Transparency Attestations following Project Completion Within 10 days of the approved final inspection of any project subject to this Chapter, each permittee shall provide to the City for each Contractor and Qualifying Subcontractor a Pay Transparency Attestation on a form approved by the City. On each Pay Transparency Attestation, a Responsible Representative of the Contractor or Qualifying Subcontractor shall attest under penalty of perjury that the Contractor or Qualifying Subcontractor complied with Chapter 13.104 of the Berkeley Municipal Code and Labor Code sections 226(a) and 2810.5 for each employee who performed work on the Project. The City will maintain Pay Transparency Attestation forms for period of at least three years after their date of receipt by the City. (BMC Section 13.104.040).	City of Berkeley BMC 13.104	Within 10 Days of Approved Final Inspection	



Property Address:
Application Number:

CONDITIONS OF APPROVAL

3.	Construction and Demolition Diversion Receipt Reporting. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using Green Halo and submit online for City review and approval prior to final inspection. Alternatively, complete the Construction Waste Management Plan and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.			
4.	SOSIP Improvements. At the discretion of the City Engineer, the developer shall make an in-lieu payment for roadway improvements which are not constructed as part of the Project. Maximum payment amount shall be increased annually (if applicable) based on the Engineering News Record's construction prices for the San Francisco Bay Area. The first half of these payments shall be made prior to issuance of a building permit, and the second half shall be made prior to issuance of a certificate of occupancy. "(CDMU only)"			
5.	Streets and Open Space Improvement Plan (SOSIP) Impact Fee: As required by BMC Section 23.204.130, the Project shall pay an impact fee to implement the Streets and Open Space Improvement Plan (SOSIP) per the fee schedule adopted by the Council by resolution. The City shall deposit this payment into the Downtown Streets and Open Space Improvement Fund, or its equivalent, to pay for the design and construction of the SOSIP Major Projects. The fee shall apply to the Project's "Gross Floor Area" as defined in BMC Section 23.106.030, less any existing Gross Floor Area removed as part of the Project. "(CDMU only)"	City of Berkeley BMC 23.204.130		



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	At the City's discretion, the City Manager or her designee may reduce the required SOSIP Impact Fee, on a \$1 to \$1 ratio, as a credit for constructing all or a portion of a Major SOSIP Improvement Project beyond the frontage improvements already required by this Permit. The first half of this fee shall be paid prior to issuance of a building permit, and the second half shall be paid prior to issuance of a certificate of occupancy.			
	VII. Prior to Certificate of Occupancy	<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>
1.	Planning Inspection. Planning staff shall conduct a site visit to review exterior building elevations for architectural consistency with the approved plans and landscape installation (if required). All exterior finishing details including window trim, paint, gutters, downspouts, decking, guardrails, and driveway installation shall be in place prior to scheduling the final inspection.	City of Berkeley		
2.	Post Construction Review. Upon completion of the Project, the structures (or, in case of large buildings, of the portions of the structures) previously inspected will be resurveyed, and any new cracks or other changes shall be compared to pre-construction conditions and a determination shall be made as to whether the proposed Project caused the damage. The findings shall be submitted to the Building and Safety Division and the Zoning Officer for review. If it is determined that Project construction has resulted in damage to the structure, the damage shall be repaired to the pre-existing condition by the Project sponsor, provided that the property owner approves of the repair.			



Property Address:
Application Number:

CONDITIONS OF APPROVAL

3.	Dwellings Approved as Rental Units / Condo Map. Dwellings that are approved as rental units, but in which a condo map is approved prior to issuance of an occupancy permit, shall be subject to the affordability requirements within BMC 23.328 in effect on March 31, 2023.			
4.	Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Sections 23.334.030(C) and 23.322.090 (bike parking) have been installed. A Parking and Transportation Demand Management compliance report documenting that the programmatic measures required in BMC Sections 23.334.030(C) and 23.322.090 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the Project is compliant with the applicable requirements in these sections. A. Consistent with BMC Section 23.334.030(A), all parking spaces provided for residents be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the Project planner prior to issuance of Certificate of Occupancy or final inspection. B. "(Projects not in Southside)" Consistent with BMC Section 23.334.030(B), at least one of the following transit benefits shall be offered, at no cost to the resident, for a period of ten years after the issuance of a Certificate of Occupancy. A notice describing these transportation benefits shall be posted in a location or locations visible to all residents. i. "[For projects that include 99 dwelling units or fewer]" One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit, up to a maximum of two benefits per dwelling unit.	City of Berkeley BMC Sections 23.334.030 23.322.090		



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	ii. [For projects that include 100 dwelling units or more] One monthly pass for unlimited local bus transit service for every bedroom in each dwelling unit. iii. [For GLA projects subject to TDM of any size] Each Group Living Accommodation rooms will receive one pass iv. Subject to the review and approval of the Zoning Officer in consultation with the Transportation Division Manager, a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited adult monthly pass for unlimited local bus transit service monthly local bus pass. C. Consistent with BMC Section 23.334.030(C), publicly-available, real-time transportation information in a common area, such as a lobby or elevator bay, on televisions, computer monitors or other displays readily visible to residents and/or visitors, shall be provided. Transportation information shall include, but is not limited to, transit arrivals and departures for nearby transit routes. D. Property owners may be required to pay administrative fees associated with compliance with this Condition of Approval.			
5.	"(C-DMU Only)" Transportation Demand Management. Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Section 23.322.060 have been installed. A Parking and Transportation Demand Management compliance report documenting that the programmatic measures required in BMC Section 23.322.060 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the Project is compliant with the applicable requirements in this section:	City of Berkeley BMC Section 23.322.060		



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	A. New construction that results in an off-street total of more than 25 publicly available parking spaces shall install dynamic signage to Transportation Division specifications, including real-time garage occupancy signs at the entries and exits to the parking facility with vehicle detection capabilities and enabled for future connection to the regional 511 Travel Information System; or equivalent, as determined by the Land Use Division in consultation with the Transportation Division. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy. B. For any new building with residential units or structures converted to a residential use, required parking spaces shall be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection. C. For new structures or additions over 20,000 square feet, the property owner shall provide transportation benefits at no cost to every employee, residential unit, and/or group living accommodation resident, one pass for unlimited local bus transit service; or (subject to the review and approval of the Zoning Officer in consultation with the Transportation Division) a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted adult monthly local bus pass. A notice describing these transportation benefits shall be posted in a location or locations visible to all employee and residents. D. For residential structures constructed or converted from a non-residential use that provide off-street parking, vehicle sharing spaces shall be provided in the amounts shown in BMC Table 23.322-6, to be offered to vehicle sharing service providers at no cost, for as long as providers request the spaces, and otherwise consistent with BMC Section 23.322.060(D).			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

6.	Car Sharing Spaces. At least [redacted] car share spaces shall be provided within the parking garage for the life of the building. In addition, these car share spaces are subject to the following requirements: A. At least 90 days prior to issuance of a certificate of occupancy, the property owner shall do one of the following if necessary to ensure that car share spaces are provided at this site: 1) purchase 2 cars for the use of a vehicle sharing service provider (VSSP; e.g., City CarShare or Zipcar), or 2) provide a monthly subsidy to offset the costs to a VSSP to provide for the management of the cars at this site. B. Prior to issuance of a certificate of occupancy, the property owner shall provide one of the following: 1) a signed agreement with a VSSP to manage shared vehicles at the site, or 2) a plan to provide on-site management. If the vehicle sharing spaces are managed by a VSSP, these spaces shall be accessible to all VSSP members in the same manner and during the same hours as other vehicles offered by the VSSP.			
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VIII. Fees		Regulation Source	Timing/ Implementation	Enforcement/ Monitoring
1.	Percent for Public Art. Pursuant to BMC 23.316, the applicant shall either pay the required in-lieu fee or provide the equivalent amount in a financial guarantee to be released after installation of the On-Site Publicly Accessible Art.	City of Berkeley BMC Section 23.316	Prior to Certificate of Occupancy	Office of Economic Development
2.	Affordable Housing Mitigation Fee. Consistent with BMC 22.20.065 and fee resolution No. 68,074-N.S., the applicant shall provide a schedule, consistent with a schedule approved by the City Manager or her designee, outlining the timeframe for payment of the Affordable Housing Mitigation Fee (AHMF), or provide an alternative to the fee	City of Berkeley BMC Section 22.20	Prior to Certificate of Occupancy	Health, Housing & Community Services



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	payment as permitted by the BMC. Payment of the AHMF may be reduced if paid prior to the building permit per resolution No. 68,074-N.S., and shall be paid no later than prior to the issuance of a certificate of occupancy for the Project.	BMC Section 23.328		
3.	Streets and Open Space Improvement Plan: Impact Fee. As required by BMC Section 23.204.130.F, the Project shall pay an impact fee to implement the Streets and Open Space Improvement Plan per the fee schedule adopted by the Council by resolution. The City shall deposit this payment into the Downtown Streets and Open Space Improvement Fund, or its equivalent, to pay for the design and construction of the SOSIP Major Projects. The fee shall apply to the Project's "Gross Floor Area" as defined in BMC Section 23.502, less any existing Gross Floor Area removed as part of the Project.	City of Berkeley BMC Section 23.204.130.F	Prior to Certificate of Occupancy	Land Use Planning
4.	Parking In-Lieu Fee. Consistent with BMC 23.322.030(J), the applicant shall pay a fee in lieu of providing each required vehicle parking. As set by the City Council, the graduated fee is as follows: \$15,000 for each space 1-5, \$20,000 or each space 6-15, \$25,000 for each space 16-25, and \$30,000 for each space above 25. The in-lieu fee will be deposited into a fund established by the City that provides enhanced transit services. "(CDMU only)"	City of Berkeley BMC 23.322.030(J)	Prior to Certificate of Occupancy	Land Use Planning
5.	Condition and Compliance Monitoring. The applicant shall pay a \$10,000 deposit for the cost of monitoring compliance with the Conditions of Approval and other applicable conditions and regulations prior to issuance of building permit. <u>City staff shall obtain a scope and cost from a pre-approved consultant to conduct required monitoring compliance.</u> If compliance-monitoring expenses exceed the initial deposit, the applicant shall deposit additional funds to cover such additional expenses <u>prior to the initiation of monitoring compliance.</u> The City shall not issue a <u>notice-to-proceed until all funds are deposited.</u> Any unused deposit will be refunded to the applicant.	City of Berkeley	At the time of Building Permit Submittal	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

6.	Fee Deferrals. All zoning project application fees that were deferred at the time of application submittal shall be paid in full.	City of Berkeley	At the time of Building Permit Submittal	Land Use Planning
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IX. Operational Conditions A. Alcoholic Beverage Service (on-site)		<u>Regulation Source</u>	<u>Timing/ Implementation</u>	<u>Enforcement/ Monitoring</u>
1.	Authority & Revocation. This Permit is subject to review, imposition of additional Conditions of Approval, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required Conditions of Approval or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
2.	Department of Alcoholic Beverage Control. The Food Service Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.	Department of Alcoholic Beverage Control	On-Going	Department of Alcoholic Beverage Control
3.	Use Permit Posting. This Permit, including these and all other required Conditions or Approval, shall be posted in conspicuous location, available for viewing by any interested party.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
4.	Incidental Use. Alcoholic beverage service shall be “incidental” to the primary food service use, as defined in Zoning Ordinance 23.502. An incidental use shall not exceed twenty-five percent (25%) of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of 33 percent of the gross receipts generated by the primary use.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
5.	Bona Fide Eating Place. Alcohol beverage service shall be only be allowed as part of a	City of Berkeley	On-Going	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	"bona fide eating place" making "actual and substantial sales of meals," and stringently enforces this requirement as determined and required by the California Department of Alcoholic Beverage Control.			Code Enforcement Officer
6.	Operating Hours-Alcohol Service. The service of alcohol shall be limited to normal meal hours (per California Department of Alcoholic Beverage Control (ABC)) during the restaurant's hours of operation. Patrons may only purchase food or finish drinks already purchased within the approved service hours. The Zoning Adjustments Board shall approve any change in the hours of restaurant operations and/or alcohol service (except decreased hours in compliance with applicable ABC regulations). Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.	Department of Alcoholic Beverage Control/ City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
7.	Service Area. During operating hours, 100 percent of the service area shall be designed and used for and must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
8.	Requirement for Sidewalk Seating Permit. There shall be no service or consumption of alcohol on the public right-of-way, unless authorized by a Public Works sidewalk seating permit.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
9.	Durable Tableware. All alcoholic beverages served to patrons must be served in durable restaurant tableware (i.e. cups or glasses). No beer or wine may be distributed in its original bottle or can, or in any other potentially disposable container.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
10.	Crime Prevention Through Environmental Design. A Berkeley Police Department Crime Prevention Through Environmental Design survey shall be completed prior to commencing alcohol service.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
11.	Employee Training. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, shall complete the Licensee Education on Alcohol and Drugs program, or another equivalent program offered or certified by the California	City of Berkeley	On-Going	Land Use Planning Code Enforcement



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	Department of Alcoholic Beverage Control within 6 months of employment at the establishment. Employees who have completed the course within the last five (5) years shall be exempt from this requirement.			Officer
12.	Serving Limitations. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
13.	Prior Complaints. Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations to be confirmed by the Zoning Officer prior to issuance or transfer of a business license at this location.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
14.	Cash Handling. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
15.	Patron Reminders. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets. The operator shall give surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity. Furthermore, the operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer
16.	Prohibited Uses.	City of Berkeley	On-Going	Land Use Planning Code Enforcement Officer



Property Address:
Application Number:

CONDITIONS OF APPROVAL

A. Off-Site Consumption Prohibited. The sale of alcoholic beverages for consumption off the premises is prohibited. B. Prohibition of Fortified Alcohol Products. Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises. C. Prohibition of Third Party Promoter. At no time shall the operator rent the restaurant space to a third-party promoter. D. Advertising Prohibited. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this Condition of Approval. E. Lounge Prohibited. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption.			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

VIII. Operational Conditions B. Hot Tubs		<u>Regulation Source</u>	Timing/ <u>Implementation</u>	Enforcement/ <u>Monitoring</u>
1.	Compliance with the California Building Code. The hot tub shall be equipped with safety features in accordance with the California Building Code.	City of Berkeley	On-Going	Land Use Planning
2.	Pump Installation. The pump shall be mounted, enclosed and maintained to prevent sound from being audible on adjacent lots.	City of Berkeley	On-Going	Land Use Planning
3.	Requirement for Review. This Permit shall be subject to review and modification as necessary to alleviate excessive noise or disturbance to the neighborhood.	City of Berkeley	On-Going	Land Use Planning
4.	Noise Standards. Mechanical operation and use must adhere to the exterior noise standards of BMC Section 13.40.050, Community Noise Ordinance – Exterior Noise.	City of Berkeley BMC 13.40.050	On-Going	Land Use Planning



Property Address:
Application Number:

CONDITIONS OF APPROVAL

IX. HARD HATS		<u>Regulation Source</u>	<u>Timing/Implementation</u>	<u>Enforcement/Monitoring</u>
1.	HARD HATS (BMC Section 13.107). Pursuant to BMC Chapter 13.107 "Establishing Healthcare and Apprenticeship Standards for Private Development" projects within City limits consisting of construction of either a new building, addition to an existing building, alteration of existing floor area, or demolition of 50,000 square feet or more of floor area shall be subject to the requirements of this Chapter. The combination of alterations, additions and/or demolition that impacts 50,000 square feet or more of floor area shall be subject to the requirements of this Chapter. This includes compliance with the requirements contained in BMC Sections 13.107.040 - 13.107.090. permit a. Prior to Building Permit issuance and during Project construction, the applicant shall comply with the following sections and submit the required document(s): i. BMC Section 13.107.040(a)-(d), Apprenticeship Requirements ii. BMC Section 13.107.050(a)-(e), Health Care Expenditures Submit: Contractor Prequalification Questionnaire b. At the time Building Permit Issuance, the applicant shall comply with the following section and submit the required document(s): i. BMC Section 13.107.060, Required Applicant and Contractor Statements	City of Berkeley BMC 13.107 "Establishing Healthcare and Apprenticeship Standards for Private Development" (HARD HATS)	See Condition Language	HCS Division laborstandards@berkeleyca.gov



Property Address:
Application Number:

CONDITIONS OF APPROVAL

	ii. Submit: Applicant Declaration Submit: Statement of Compliance seven days before contractor starts work c. Within 30 Days of completing each contractor's respective work i. BMC Section 13.107.060, Required Applicant and Contractor Statements Submit: Contractor Satisfaction Statement d. Prior to Issuance of Certificate of Occupancy, or prior to approved final inspection for alterations, additions, or demolition projects that do not change the occupancy class of the structure or space: i. BMC Section 13.107.060, Required Applicant and Contractor Statements Submit: Applicant Certification of Compliance e. During Project Construction, the applicant shall comply with the following sections: i. BMC Section 13.107.070(a)-(b), Notice and Posting ii. BMC Section 13.107.080, Retaliation Prohibited f. On-Going and at least three years after receiving approved Final Inspection, the applicant shall comply with the following section:			
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Property Address:
Application Number:

CONDITIONS OF APPROVAL

	i. BMC Section 13.107.090, Retention of Records			
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DRAFT



PLANNING COMMISSION

Notice of Public Hearing Wednesday, March 5, 2025

Adoption of Zoning Amendments for Standard Conditions of Approval for Development Projects

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.412, on **Wednesday, March 5, 2025 at 6:00 p.m.** at the **North Berkeley Senior Center**, 1901 Hearst Ave, Berkeley (wheelchair accessible). In accordance with the Brown Act, Planning Commission meetings will be held in person only.

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

PROJECT DESCRIPTION

Pursuant to Berkeley Municipal Code (BMC) Chapter 23.404.050 (Public Hearings and Decisions), the City of Berkeley may attach conditions to any discretionary permit as it deems reasonable and necessary to achieve consistency with the General Plan and Zoning Ordinance, and to promote public health, safety and welfare. A discretionary permit includes an Administrative Use Permit or a Use Permit, as defined in the BMC.

The proposed amendments would provide that applicable uniformly-applied Standard Conditions of Approval could also be attached to development projects approved with a Zoning Certificate. The uniformly applied Standard Conditions of Approval would be codified in a public document that would be adopted by the City Council and subject to periodic revision, administratively, by the Planning Director.

LOCATION: The proposed zoning ordinance amendments would apply to development projects citywide.

ENVIRONMENTAL REVIEW STATUS

The proposed amendments would provide that applicable uniformly-applied standard conditions of approval could also be attached to development projects approved with a Zoning Certificate. The uniformly applied standard conditions of approval would be codified in a public document that would be adopted by the City Council and subject to periodic revision, administratively, by the Planning Director. The conditions of approval are specifically crafted to reduce potentially adverse environmental effects, including those related to air quality, noise, and archeological or paleontological resources, and promote public health and welfare.

The proposed amendments would therefore have no adverse effect on the environment, and are thereby exempt from CEQA under CEQA Guidelines Section 15061(b)(3) (the "common sense" exemption).

PUBLIC COMMENT & FURTHER INFORMATION

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

hearing. Written comments must be directed to:

Faye Messner
Planning Commission Clerk
Email: PlanningPC@berkeleyca.gov

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

Correspondence received by **12pm on Tuesday, February 25, 2025**, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12pm on Monday, March 3, 2025** will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication one day before the public hearing.
- Correspondence received by **5pm on Tuesday, March 4, 2025** will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication by 5pm on the day of the public hearing.
- Correspondence received **after 5pm on Tuesday, March 4, 2025** will be saved as part of the public record.

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

COMMUNICATION ACCESS

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

FURTHER INFORMATION

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



Planning and Development Department
Land Use Planning Division

STAFF REPORT
March 5, 2025

TO: Members of the Planning Commission

FROM: Branka Tatarevic, Associate Planner

SUBJECT: Accessory Dwelling Unit (ADU) Ordinance Amendments

RECOMMENDATION

Staff recommends that the Planning Commission review the staff report, receive the staff presentation, consider public comments, and provide feedback to staff on potential amendments to the ADU Ordinance.

BACKGROUND

The consideration of updates to the ADU ordinance has been prompted by a number of factors including a City Council referral for implementation of Assembly Bill (AB) 1033, the California Department of Housing and Community Development's (HCD) review of Berkeley's ADU Ordinance, and changes to state law pertaining to ADUs.

Assembly Bill 1033 (ADU Condominiums)

AB 1033 (Gov. Code § 66340 – 66342), which took effect on January 1, 2024, allows ADUs to be sold separately from the primary residence as condominiums, creating new opportunities for entry-level homeownership. Prior to AB 1033, California law prohibited the separate conveyance of ADUs, requiring them to remain under the same ownership as the primary dwelling unit. AB 1033 lifts this restriction, but local jurisdictions must opt-in by adopting an ordinance to enable separate ADU sales.

On May 14, 2024, the Berkeley City Council approved a referral (***Attachment 1***) directing the City Manager to implement AB 1033 by amending the Berkeley Municipal Code to eliminate restrictions on the sale of ADUs and adopt an ordinance allowing their separate sale. The referral emphasizes the potential of ADU condominiums to increase homeownership opportunities for moderate-income households, help existing homeowners generate equity, and expand naturally affordable housing options in the city.

As of today, the City of San José remains the only jurisdiction in California to have adopted an ADU condominium ordinance (***Attachment 4***). Staff have met with the San José team to discuss their approach to AB 1033 implementation, as well as their processing procedures. San José's ADU Condominium Ordinance is separate from its

existing ADU, subdivision or other land use regulations and applies only to the creation of ADU condominiums. The ordinance limits ADU condo projects to a maximum of four units, as subdivisions with four or fewer units can be processed ministerially as Parcel Maps, rather than through the discretionary process required for Tentative Tract Maps. Unlike Berkeley, San José does not have its own policies to disincentivize condo conversions or mitigate the impacts of condo conversions on the affordability of the rental housing market.

ADU Letter from California Housing and Community Development Department

As part of its oversight of local ADU regulations, HCD issued a letter to the City of Berkeley on May 3, 2024 (***Attachment 2***), reviewing the Berkeley Municipal Code Chapter 23.306 (Accessory Dwelling Units)¹, which was adopted on October 10, 2023. In the letter, HCD asserted that several provisions of BMC Chapter 23.206 do not align with state ADU law and must be amended.

The City responded to HCD's letter on June 3, 2024 (***Attachment 3***). The City's letter determined that:

- a number of the HCD's suggested changes were minor. These minor changes were included in the State Law and Technical Edits package the Planning Commission recommended in June 2024;
- a select number of findings did not require any changes; and
- an additional set of findings required policy consultation with the City Council. These are the findings included in this report for policy recommendations from the Planning Commission.

California Government Code Section 66323 includes types of ADUs that the City must approve ministerially. Generally speaking, these are ADUs that are 800 square feet or less, meet specified height requirements, and comply with specified rear and side setback requirements. While the City can adopt development standards and regulations for larger ADUs, cities are limited in the regulation of these "Section 66323 ADUs"

Senate Bill 1211

Senate Bill 1211 (SB 1211) was signed into law in on September 19, 2024. SB 1211 contains two provisions which could require amendments to the BMC.

Previously, state law allowed only two detached ADUs on a multifamily lot. SB 1211 now permits up to eight detached ADUs on a multifamily lot, or a number equal to the existing units on the lot, whichever is less. BMC Chapter 23.206 is proposed to be amended to comply with SB 1211 as part of the annual State Law and Technical Edits (STLE) package which the Planning Commission will review in the spring.

Additionally, SB 1211 includes a provision which prohibits the City from imposing objective development or design standards on Section 66323 ADUs beyond what is authorized in state law.

¹ <https://berkeley.municipal.codes/BMC/23.306>

DISCUSSION

Assembly Bill 1033 and ADU Condominiums

AB 1033 Local Ordinance Requirements

AB 1033 allows a city to adopt a local ordinance permitting separate sale of the primary dwelling and one or more ADUs as condominiums. To do so, the local ordinance **must** include the following components:

- Compliance with:
 - the Subdivision Map Act;
 - the Davis-Stirling Act (the state law that regulates condominiums); and
 - the City's Subdivision Ordinance (Title 21).
- A procedure to obtain lienholders' consent (i.e., the property owner must get the mortgage lender's sign-off before a separate sale would be permitted).
- A process to conduct and verify a safety inspection. Obtaining a Certificate of Occupancy from the city, or obtaining an inspection report from a HUD-certified inspector are two of the most common approaches to meeting this requirement.
- Mandatory consumer disclosures regarding lender requirements.

If an ADU is tenant-occupied and the property owner seeks to sell the ADU as a separate condominium under an AB 1033 ADU Condominium Ordinance (once the city adopts it), the city may require that a tenant receive a right of first refusal. If the city were interested in implementing an ordinance with a right of first refusal requirement, an AB 1033 ADU Condominium Ordinance could treat ADU condos the same as typical condos under the city's own Condo Conversion Ordinance (BMC Chapter 21.28)², or it could include different requirements for the conversion of ADUs to condos.

Existing City Regulations Governing Condominiums

Existing Subdivision Ordinance (BMC Title 21 (Subdivisions))³

BMC Title 21 (Subdivisions) was enacted for the purpose of adopting regulations to implement and supplement the State's Subdivision Map Act. Title 21 includes:

- A ministerial process for the creating a Parcel Map for four or fewer parcels or condo units;
- A discretionary process for Tentative Maps for creating five or more parcels or condo units;
- Condo conversion regulations; and
- Design requirements, procedures for lot line adjustments and subdivision improvement requirements.

² <https://berkeley.municipal.codes/BMC/21.28>

³ <https://berkeley.municipal.codes/BMC/21>

*Existing Condominium Conversion Ordinance (BMC Chapter 21.28)*⁴

Berkeley's Condominium Conversion Ordinance lays out the procedures, fees, and required tenant protections for applicants proposing to convert existing dwelling units into condominiums. It also includes the city's annual limit on allowable condo conversions.

Generally, BMC Chapter 21.28 requires:

- Payment of a Condo Conversion Mitigation Fee;
- Tenant protections, including notice, relocation assistance, and right of first refusal.

Since 1992, the City of Berkeley has imposed a Condo Conversion Housing Mitigation Fee. Revenues from the fee accrue to the Berkeley Housing Trust Fund to help finance construction and rehabilitation of permanently affordable housing in Berkeley.

The fee is calculated by dividing the difference between the costs of owning the unit as a condominium less the rental costs by the current fixed mortgage rate. The following is an example of a fee calculation from the city's *Residential Condominium Conversion Packet*.⁵

- Rental Costs = \$1,500 per month x 12 months/year = \$18,000 annually
- Ownership Cost (including principal, interest, taxes, insurance, and homeowners' association dues) = \$2,700 per month x 12 = \$32,400
- Assume a mortgage rate of 6.5 percent.
- Increased housing cost due to ownership conversion of the unit = \$32,400 - \$18,000 = \$14,400
- Mitigation Fee = \$14,400/0.065 = \$221,538

In addition, Berkeley's Condo Conversion Housing Mitigation Fee is designed to encourage property owners to extend protections to their tenants. Owners providing additional tenant protections specified in the Condo Conversion Ordinance receive a decrease in the amount of the fee, which is capped at 8% of the total sales price, or 4% of the total sales prices for 2-unit properties.

*Berkeley Rent Ordinance (BMC Chapter 13.76)*⁶

⁴ <https://berkeley.municipal.codes/BMC/21.28>

⁵ City of Berkeley, *Residential Condominium Conversion Packet*, Updated: July 1, 2022.
https://berkeleyca.gov/sites/default/files/documents/Condo%20Packet%2007-01-2022_Posted%20Online.pdf

⁶ <https://berkeley.municipal.codes/BMC/13.76>

Under Berkeley's Rent Stabilization Ordinance, units with a Certificate of Occupancy issued after June 30, 1980, are generally exempt from rent ceiling controls. Most ADUs fall into this "new construction" exemption, though they still must follow just-cause eviction rules (BMC § 13.76.130).

Policy Questions for Planning Commission Discussion

1) Regulation of ADU Condos.

Should ADU condos be treated as any other condominium under Chapter 21.28—including payment of the Condominium Conversion Mitigation Fee, tenant protections, and discretionary approval for five or more units—or should the city create a streamlined path for ADU condominiums (as San Jose does)?

2) Right of First Refusal.

Should an AB 1033 ordinance require a right of first refusal for any tenant occupying an ADU that is being sold as a separate condominium? If so, should the right be the same as the current Condo Conversion Ordinance (i.e., one year to respond) or should it include a different timeline for ADU condominiums?

ADU Letter from California Housing and Community Development Department

On May 3, 2024, HCD sent a letter regarding the ADU Ordinance (***Attachment 2***), and the city responded on June 3, 2024 (***Attachment 3***). The letter included a set of findings which called for policy consultation with the Planning Commission, which are included below.

Number of ADUs Permitted

In its letter of May 3, 2024, HCD found that BMC Chapter 23.306 did not permit as many Section 66323 ADUs as required under state law. Currently, Table 23.306-1 (Unit Allowance) permits one ADU and one Junior ADU on a parcel with an existing single-family dwelling. HCD asserted that Government Code Section 66323 permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU, for a total of three Section 66323 ADUs.

This is consistent with the latest *HCD ADU Handbook (January 2025)*⁷, which explains that on single-family lots specifically, local agencies must allow Category (a)(1) (converted ADU) and Category (a)(2) (detached ADU) together, plus one JADU (also described in Gov. Code § 66323(a)(1)).

⁷ California Housing and Community Development Department, *Accessory Dwelling Unit Handbook*, January 2025. <https://www.hcd.ca.gov/sites/default/files/docs/policy-and-research/adu-handbook-update.pdf>

Originally, BMC Section 23.306.020(B) was drafted based on HCD's *December 2020 ADU Handbook*, which stated that the two new ADU/JADU categories under former subdivision (e) "are not required to be combined." At that time, it appeared an applicant seeking to build both an ADU and a JADU would have to choose between a single-family ADU+JADU "conversion configuration" or "detached configuration," rather than do both. However, in July 2022, HCD updated its guidance to clarify that the four statutory categories of ADUs "may be combined"—meaning a local government "must allow (A) and (B) together or (C) and (D) together."

Question for the Planning Commission: Should the Berkeley Municipal Code (BMC) be amended to clearly allow up to three units on a single-family property: one interior/converted ADU, one detached new-construction ADU, and one JADU?

Conversion of Accessory Structures

In its letter of May 3, 2024, HCD found that the city must amend the BMC to remove the words "legally established" from BMC Section 23.306.030(A)(3), related to the conversion of accessory structures.

BMC Section 23.306.030(A)(3) states "An ADU converted from a legally established accessory building or accessory structure is allowed to maintain non-conformity to the same location and dimensions of the existing accessory building or accessory structure...."

Question for the Planning Commission: Should the Berkeley Municipal Code (BMC) be amended to remove the requirement that an accessory building or structure be "legally established" to be eligible for conversion to an ADU?

JADUs and Enclosed Uses

BMC Section 23.306.030(B) allows JADUs "within an existing or proposed single family dwelling or its attached garage...." It is later defined in Section 23.502.020(A)(4)(a) as, "A unit that is contained entirely within the walls of an existing or proposed single family dwelling, or a single-family dwelling unit's attached garage."

In its letter of May 3, 2024, HCD found that Government Code Section 66333 provides a broader allowance, stating "For purposes of this subdivision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence," and that the BMC must allow JADUs in other enclosed uses not limited to the single-family residence and an attached garage.

City staff interprets the existing BMC language to already include other enclosed areas of the single-family dwelling. Specifically, the BMC definition of "accessory uses" (BMC Section 23.502.020(B)(2)(a)) is broad and extends beyond just the attached garage (e.g., storage rooms, basements). There is no instance staff could envision where an enclosed space would be excluded from conversion under the current definition.

Question for the Planning Commission: Should the Berkeley Municipal Code (BMC) be amended to explicitly expand eligibility to all “enclosed uses”?

Deed Restriction

BMC Section 23.306.040 states that “A completed [ADU] application must include evidence of compliance with this Chapter, including development standards, deed restrictions, and neighborhood noticing.”

In its letter of May 3, 2024, HCD found Government Code section 66317, states, “No local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this section,” and therefore the city may not condition approval of an ADU application on the recordation of a deed restriction.

Under the ADU Ordinance, the requirement that a deed restriction be recorded is not a condition of approval; it is a requirement for a completed application. City staff does not interpret this provision as allowing the city to delay or deny a permit solely for lack of a recorded deed restriction.

Question for the Planning Commission: Should the Berkeley Municipal Code (BMC) be amended to remove the deed restriction requirements for a completed application?

JADU Rental Term

BMC Section 23.306.040(C)(3) states that a JADU cannot be rented for a term that is shorter than 30 days. In its letter of May 3, 2024, HCD found that while Government Code section 66333 allows the city to adopt an ordinance to provide for the creation of JADUs, and includes the provisions that can be included in the ordinance, the provisions do not include requiring a minimum rental term of 30 days. Therefore, HCD states that the 30-day rental term minimum for JADUs must be removed. The current 30-day minimum rental term for ADUs complies with state law.

Question for the Planning Commission: Should the Berkeley Municipal Code (BMC) be amended to remove the 30 days minimum rental term for JADUs?

Senate Bill 1211

SB 1211 (signed on September 19, 2024) allows up to eight detached ADUs on a lot with an existing multifamily dwelling (subject to certain limits). Staff intends to incorporate this statutory update into the upcoming State Law and Technical Edits (SLTE) Zoning Amendments package that will come before the Planning Commission for public hearing this Spring.

SB 1211 also includes a provision which prohibits the City from imposing objective development or design standards on Section 66323 ADUs beyond what is authorized in state law. There are two provisions in the BMC which may conflict with this provision.

1) *ADUs in the Front Setback*: BMC Chapter 23.306.030(A)(4) prohibits the placement of ADUs in the front setback unless the only location on a lot that can accommodate an 800 square foot ADU is within the front setback. The section also includes specific front setback requirements that apply only to ADUs that qualify to be located within the front setback. State law currently permits only the establishment of side and rear setbacks for Section 66323 ADUs, not front setbacks. SB 1211 could be interpreted to limit the city's ability to prohibit Section 66323 ADUs in the front setback even if an ADU could be located elsewhere on a lot.

2) *ADU Building Separation*: BMC Chapter 23.306.030(A) includes basic development standards for ADUs, which include building separation standards. State law currently only permits the establishment of side and rear setbacks for Section 66323 ADUs. There is no provision for the establishment of building separation standards, nor is there any explicit prohibition. The building separation requirement was adopted by the City Council to address concerns about fire safety and firefighter access to buildings on a property. State law provides the establishment of side and rear setbacks "for fire safety," but does not specifically mention building separation requirements for Section 66323 ADUs.

Question for the Planning Commission: Should BMC Chapter 23.306.030 be amended to remove the front setback and building separation provisions for Section 66323 ADUs, or should those provisions be removed for all ADUs?

ENVIRONMENTAL REVIEW

There are no identifiable environmental effects or opportunities associated with this informational report.

NEXT STEPS

Staff is currently reviewing HCD's comments and exploring policy options to meet state requirements, particularly regarding separate ADU conveyance and other statutory changes. With Planning Commission's input, we will incorporate them into draft amendments, solicit public feedback, and move forward with the required steps for final adoption of any Zoning Ordinance amendments.

CONTACT PERSON

Branka Tatarevic, Planning and Development Department, 510-981-7472

ATTACHMENTS

1. Referral to Implement AB 1033
2. HCD ADU Ordinance Review Letter
3. City's Response to HCD's Letter
4. San Jose ADU Condominium Ordinance



Rashi Kesarwani
Councilmember, District 1

ACTION CALENDAR
May 14, 2024

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Mark Humbert (Co-Sponsor), Councilmember Terry Taplin (Co-Sponsor)

SUBJECT: Increasing Entry Level Homeownership Opportunities:
Implementation of AB 1033 to Allow Accessory Dwelling Units (ADUs)
To Be Sold Separately

RECOMMENDATION

Refer to City Manager to implement AB 1033, which would allow Accessory Dwelling Units (ADUs) to be sold separately from a primary unit.

This referral would necessitate elimination of any mention of sales restrictions as they pertain to ADUs within the Berkeley Municipal Code and adoption of an ordinance allowing ADU sales separate from a primary unit(s).

CURRENT SITUATION AND ITS EFFECTS

AB 1033 Allows ADUs to be Sold Separately from a Primary Residence, Increasing Entry Level Homeownership Opportunities. State law AB 1033, effective January 1, 2024, eliminates the prior state law prohibiting the mapping and selling of a single-family home and its ADU as condominium units. While this prohibition on condominium conversion has been lifted, local agencies must opt-in and amend their codes to permit these entry-level homeownership opportunities. Congruent with the condominium homeownership model, property owners wishing to sell an ADU will need to notify their utility provider and establish a homeowners' association responsible for overseeing property maintenance. ADUs tend to be more affordable than a typical single-family home. By permitting the independent sale of ADUs, the City of Berkeley can increase the available stock of entry-level homeownership opportunities. Further, ADU condominium conversion purchases are eligible for federally guaranteed mortgages, easing financing opportunities for homebuyers.¹ AB1033 not only helps households seeking entry-level homeownership opportunities, it can also help existing homeowners to age in place by providing lump-sum resources from an ADU sale.

¹ Casita Coalition and Reuben, Junius & Rose LLP: AB 1033 - How to Implement New State ADU Condominium Laws, p. 1

<https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/65397c083ac9fc75cf8701fd/1698266121029/AB-1033-Casita-Coalition-RJR-ADU-Condos-memo.pdf>

BACKGROUND

California, particularly the Bay Area, faces an ongoing housing crisis, with affordability and accessibility becoming increasingly challenging for residents. As the state grapples with this issue, nearly 20 percent of housing units constructed in California today are ADUs, reflecting the significant contribution that ADUs are making in reducing the housing shortage.² According to the California Association of Realtors Housing Affordability Index, only 17 percent of households in the state can afford a single-family home, a figure that falls significantly below the national average.³

The California Legislative Analyst's Office, a nonpartisan entity, examined the state's exorbitant housing costs and delineated various factors contributing to it, notably a pronounced housing shortage, particularly in coastal California.⁴ Since 1980, housing construction in California has lagged significantly behind both national and historical averages. Despite a national housing boom in the mid-2000s, California's housing production remained relatively sluggish. Moreover, merely 10 percent of Berkeley's housing units were constructed after 1980.⁵ As construction slowed over time, California's housing costs escalated, surpassing the national average. Presently, home prices in Berkeley stand at \$1.4 million compared to the national average of \$354,000.⁶

In their report, "Closing California's Housing Gap," the McKinsey Global Institute proposed specific measures to alleviate housing insecurity in the state. They recommend tackling housing scarcity by identifying potential "hot spots" for housing creation, such as areas within a half-mile radius of transit hubs, underutilized urban lots, and the addition of extra units to single-family homes.⁷

While the impact of high housing costs disproportionately affects certain racial and socioeconomic groups, there is also a noticeable generational divide. The scarcity of affordable housing near employment opportunities, coupled with mounting student debt, has resulted in a net worth for young households that is 20 percent lower than that of baby boomers in 1989 and 40 percent lower than that of Generation X families in 2001. Additionally, homeownership is increasingly unattainable for younger generations, with millennials being 8 percent less likely to own homes compared to baby boomers and Gen Xers.⁸ Nearly half of households aged 18-34 are considered rent-burdened. The Urban

² Casita Coalition and Reuben, Junius & Rose LLP: AB1033 – How to Implement New State ADU Condominium Law, p.1

<https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/65397c083ac9fc75cf8701fd/1698266121029/AB-1033-Casita-Coalition-RJR-ADU-Condos-memo.pdf>

³ Casita Coalition and Reuben, Junius & Rose LLP: AB1033 – How to Implement New State ADU Condominium Law, p.1

<https://static1.squarespace.com/static/5f2c2d67c58236227115e0de/t/65397c083ac9fc75cf8701fd/1698266121029/AB-1033-Casita-Coalition-RJR-ADU-Condos-memo.pdf>

⁴ California's High Housing Costs, Causes and Consequences (2015) Legislative Analyst's Office.
<https://lao.ca.gov/reports/2015/finance/housing-costs/housing-costs.aspx>

⁵ 2015-2023 Berkeley Housing Element (2014). City of Berkeley.

<https://cityofberkeley.app.box.com/s/x7cfk49voo9hr56iw3exsqogx0w7e6y3>

⁶ Home Values (2024) <https://www.zillow.com/home-values/>

⁷ Woetzel, J., Mischke, J., Peloquin, S., and Weisfield, D. (2016, October). A Toolkit to Close California's Housing Gap: 3.5 Million Homes by 2025. McKinsey Global Institute:

<https://www.mckinsey.com/~media/mckinsey/industries/public%20and%20social%20sector/our%20in%20sights/closing%20californias%20housing%20gap/closing-californias-housing-gap-full-report.pdf>

⁸ Grabar, Henry. (2019). I Got Mine. Slate Magazine.

Institute conducted an extensive study on the barriers to millennial homeownership and recommended a series of policy changes, with a key recommendation being the alteration of land use and zoning restrictions, particularly in areas with rigid housing supply.⁹

Furthermore, moderate-income earners often find themselves unable to access Below Market Rate (BMR) housing, exacerbating the issue. Naturally affordable housing options, such as ADUs, often offer a pathway to more affordable living. An analysis by the Turner Center revealed that 58 percent of ADU owners rented their units at below-market-rate rent. Due to their smaller size and/or cost-effective construction, ADUs frequently provide more affordable options for both owners and renters compared to single-family homes.¹⁰

FISCAL IMPACT

Staff time to amend the Berkeley Municipal Code to eliminate mention of sales restrictions as they pertain to ADUs and to prepare an ordinance allowing ADU sales separate from the main unit(s).

ENVIRONMENTAL SUSTAINABILITY

The recommendation to promote ADUs has significant implications for environmental sustainability, particularly through the concept of infill housing, especially near transit hubs. By encouraging the construction of ADUs, cities can capitalize on existing infrastructure and minimize urban sprawl by using underutilized parcels within established neighborhoods. This approach to infill housing not only optimizes land use but also reduces the need for further development on undeveloped land, preserving natural habitats and open spaces.¹¹

Moreover, situating ADUs near transit promotes alternative modes of transportation, such as walking, biking, or public transit, thus reducing reliance on cars and lowering greenhouse gas emissions associated with commuting. Overall, the strategic implementation of ADUs as infill housing near transit contributes to a more sustainable urban environment, aligning with efforts to combat climate change and promote eco-friendly living practices.

Expanding housing options plays a crucial role in addressing environmental concerns, aligning with the City of Berkeley's Climate Action Plan. Researchers from the University of California have developed a climate policy tool for local governments to evaluate policies'

<https://slate.com/business/2019/05/californiahousing-crisis-boomer-gerontocracy.html>

⁹ Choi, J., Zhu, J., Goodman, L., Ganesh, B., and Stochak, S. (July 2018). Millennial Homeownership. The Urban Institute.

https://www.urban.org/sites/default/files/publication/98729/millennial_homeownership.pdf

¹⁰ Garcia, D. (2017). ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes. Turner Center for Housing Innovation. <https://turnercenter.berkeley.edu/research-and-policy/adu-update-early-lessons-and-impacts-of-californias-state-and-local-policy-changes/>

¹¹ The Environmental Center September 24, 2020 Blog Post: Accessory Dwelling Units: A Sustainable Housing Solution: <https://envirocenter.org/accessory-dwelling-units-a-sustainable-housing-solution/#:~:text=Since%20these%20units%20tend%20to,more%20sustainable%20and%20livable%20community.>

effectiveness in reducing carbon footprints. Their study of 700 cities revealed that infill housing has the most significant impact.¹²

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

Attachments:

Casita Coalition and Reuben, Junius & Rose LLP: AB 1033 - How to Implement New State ADU Condominium Law. Pages 3-5 include required text in ADU condominium ordinances – Cal. Govt. Code Section 65852.2(a)(10)

¹² Jones, C, Wheeler, S, and Kammen, D. (2018) California Local Government Climate Policy Tool. Cool Climate Network. <https://coolclimate.berkeley.edu/ca-scenarios/index.html>



AB1033 – HOW TO IMPLEMENT NEW STATE ADU CONDOMINIUM LAW

Today, nearly 20% of housing units built in California are accessory dwelling units (“ADUs”). According to the California Association of Realtors Housing Affordability Index, only 17% of households can afford a single-family home, less than half of the national average. In many States across the country, ADU condo conversion projects are re-enabling a generation of home buyers to live in the communities of their choice near work and family. The State of Washington recently required all local agencies to allow conversions of a primary unit and ADU to condominiums for sale. Consequently, in Seattle and Portland 40% to 50% of ADUs constructed are sold as condominiums to new homebuyers, where they are bought for approximately half the value of a stand-alone single-family home. Such ADU condo conversion purchases are eligible for federally guaranteed mortgages, making them easy to finance for ordinary homebuyers.

The California State Legislature recently adopted a new law, AB1033, that creates affordable options for homeownership by allowing ADU’s to be sold separately from a primary unit. AB1033 removes the previous State law prohibition against mapping and selling a single-family home and its ADU as condominiums. Even though this prohibition on condo conversion has been eliminated, it is up to Local Agencies to amend their codes to allow these entry-level home ownership opportunities.

WHAT NEEDS TO BE DONE TO ALLOW SALE OF ADUS?

Respecting local control, the Legislature left it up to Local Agencies to amend their municipal code(s) to allow these entry-level home ownership opportunities through the sale of ADUs. The Casita Coalition and Reuben, Junius, and Rose, LLP have developed this guidance to encourage your Local Agency to make the following changes to your code(s), procedures and policies to re-enable Californians priced out of many of our communities to once again have a dream of buying a home by enabling more naturally-affordable condominiums for sale.

RECOMMENDED STEPS TO IMPLEMENT SALE OF ADUS

1. **Eliminate Sale Restrictions.** Remove all provisions in your municipal code that prohibits the sale or other conveyance of an ADU. These restrictions are typically included in local Condominium Codes and Zoning Codes.



2. **Adopt Legislation Expressly Allowing ADU Sales.** To align local rules with State law, adopt changes to the municipal code that allow conversion of a home and its ADU into condominiums subject to the requirements of the Davis-Stirling Common Interest Development Act (Cal. Civ. Code Sec. 4400-6150.) Appropriate amendment text will differ depending on the existing municipal code, but AB1033 requires a list of express provisions be included in such local ordinance, attached at the end of this document.
3. **Publish ADU Checklists.** Provide a comprehensive checklist for any ADU building permit and for ADU condominium/subdivision projects, indicating Subdivision Map Act compliance and lender subordination information.
4. **First Right of Offer to Owner Occupants.** To further encourage new homeownership, consider including a condition of approval for establishing condominiums of a primary unit and ADU giving a first right of offer for a period of 45 days on publicly accessible databases, e.g., MLS, to buyers indicating an intent to live in the property (either themselves or their immediate family). To avoid issues with lenders, however, do not require owner occupancy.
5. **Create “Grow Homeownership” Program.** Establish a program with dedicated staff that expedites ADU condominium processing with first comments to be issued within 45 days of submission of a complete application.
 - Consider waiving or reducing application and impact fees otherwise applied to condominiums.
 - The Grow Homeownership Program could be paired with other funding programs your jurisdiction may have, e.g., through SB2 (2017) funds.

If you have any questions or would like to discuss any of the above, please do not hesitate to reach out to Justin A. Zucker from Reuben, Junius & Rose, LLP at 415.656.6489 or jzucker@reubenlaw.com.

AB1033 – Required Text in ADU Condominium Ordinances – Cal. Govt. Code Sec. 65852.2(a)(10)

(A) The condominiums shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

(B) The condominiums shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all objective requirements of a local subdivision ordinance.

(C) Before recordation of the condominium plan, a safety inspection of the accessory dwelling unit shall be conducted as evidenced either through a certificate of occupancy from the local agency or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.

(D) (i) Neither a subdivision map nor a condominium plan shall be recorded with the county recorder in the county where the real property is located without each lienholder's consent. The following shall apply to the consent of a lienholder:

(I) A lienholder may refuse to give consent.

(II) A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.

(ii) Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

"(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have."

(iii) The lienholder's consent shall be included on the condominium plan or a separate form attached to the condominium plan that includes the following information:

(I) The lienholder's signature.

(II) The name of the record owner or ground lessee.

(III) The legal description of the real property.

(IV) The identities of all parties with an interest in the real property as reflected in the real property records.

Page 8 of 9

(iv) The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.

(E) The local agency shall include the following notice to consumers on any accessory dwelling or junior accessory dwelling unit submittal checklist or public information issued describing requirements and permitting for accessory dwelling units, including as standard condition of any accessory dwelling unit building permit or condominium plan approval:

"NOTICE: If you are considering establishing your primary dwelling unit and accessory dwelling unit as a condominium, please ensure that your building permitting agency allows this practice. If you decide to establish your primary dwelling unit and accessory dwelling unit as a condominium, your condominium plan or any future modifications to the condominium plan must be recorded with the County Recorder. Prior to recordation or modification of your subdivision map and condominium plan, any lienholder with a lien on your title must provide a form of written consent either on the condominium plan, or on the lienholder's consent form attached to the condominium plan, with text that clearly states that the lender approves recordation of the condominium plan and that you have satisfied their terms and conditions, if any.

In order to secure lender consent, you may be required to follow additional lender requirements, which may include, but are not limited to, one or more of the following:

(a) Paying off your current lender.

You may pay off your mortgage and any liens through a refinance or a new loan. Be aware that refinancing or using a new loan may result in changes to your interest rate or tax basis. Also, be aware that any subsequent modification to your subdivision map or condominium plan must also be consented to by your lender, which consent may be denied.

(b) Securing your lender's approval of a modification to their loan collateral due to the change of your current property legal description into one or more condominium parcels.

(c) Securing your lender's consent to the details of any construction loan or ground lease.

This may include a copy of the improvement contract entered in good faith with a licensed contractor, evidence that the record owner or ground lessee has the funds to complete the work, and a signed statement made by the record owner or ground lessor that the information in the consent above is true and correct."

Page 9 of 9

(F) If an accessory dwelling unit is established as a condominium, the local government shall require the homeowner to notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.

(G) (i) The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.

(ii) For purposes of this subparagraph, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.

(H) An accessory dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this paragraph or pursuant to Section 65852.26.

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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www.hcd.ca.gov



May 3, 2024

Jordan Klein, Director,
Department of Planning and Development
City of Berkeley
1947 Center St, 2nd Floor
Berkeley, CA 94704

Dear Jordan Klein:

RE: Review of Berkeley's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66313 - 66342)

Please Note: As of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State ADU and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered (Enclosure 1).

Thank you for submitting the City of Berkeley (City) accessory dwelling unit (ADU) Ordinance No. 7,888-N.S. (Ordinance), adopted October 10, 2023, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance does not comply with State ADU and JADU Laws in the manner noted below. Under Government Code section 66326, subdivision (b)(1), the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than June 3, 2024.

HCD notes that HCD's previous ADU Ordinance review letter, dated October 17, 2022, raised the issue of the Ordinance's restrictions on ADUs in the Very High Fire Hazard Severity Zone. Upon review of the City's Ordinance 7,888-N.S. and supporting evidence, HCD has determined that the City addressed HCD's findings.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

1. Table 23.306-1 – *Unit Allowance* – The Ordinance states a single-family dwelling is permitted, at maximum, "1 ADU and 1 Junior ADU." However, Government Code section 66323, subdivision (a) states, "Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to

Jordan Klein, Director, Department of Planning and Development
Page 2

create any of the following: (1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...(A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single family dwelling or existing space of a single-family dwelling or accessory structure.” Subdivision (a)(2) permits, “[o]ne detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” The use of the term “any” followed by an enumeration of by-right ADU types permitted indicate that any of these ADU types can be combined on a lot zoned for single family dwellings.

This permits a homeowner, who meets specified requirements, to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setbacks pursuant to the subdivision, the local agency cannot deny the application, nor deny a permit for a JADU under this section. Therefore, the City must amend the Ordinance to permit all by-right combinations required by State ADU Law.

2. 23.306.030 A.1 – *150 Sq. ft. Expansion* – The Ordinance states “ADU Development Standards is allowed a physical addition of no more than 150 square feet.” However, Government Code section 66323, subdivision (a)(1)(A) allows, an “expansion of not more than 150 square feet beyond the same physical dimensions as the **existing accessory structure**. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.” The statute intends for this expansion only with the conversion of an existing accessory structure. Therefore, the Ordinance allowing expansion for all building conversions is inconsistent with State ADU Law. The City must amend the Ordinance to limit the expansion only in conjunction with the conversion of existing accessory structures.
3. 23.306.030 A.2 – *“Main Building” and Conversion* – The Ordinance states that for a duplex or multifamily building, “Interior ADU(s) must be created entirely through non-habitable residential portions of the existing main building that are not within the living space of a dwelling unit (e.g. basement, attic, garages, storage room).” The term “main building” is problematic as Government Code section 66323, subdivision (a)(3)(1), allows “Multiple accessory dwelling units within the portions of **existing multifamily dwelling structures** that are not used as livable space....” The term “the existing main building” refers to a single building, whereas State ADU Law refers to “existing multifamily dwelling structures.” As worded, the Ordinance could lead to confusion as many multifamily projects could have multiple building with units within them.

Additionally, the adjective “main” is not objective, especially in situations wherein multiple dwelling structures occupy a single lot. Government Code

Jordan Klein, Director, Department of Planning and Development
Page 3

section 66314, subdivision (b)(1) requires the use of “objective standards” for ADUs, which are defined in Government Code section 66313, subdivision (h) as “standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal.” The use of such a subjective term is inconsistent with State ADU Law.

In summary, the City must amend the Ordinance to comply with State ADU Law.

4. 23.306.030 A.3. – *Accessory Conversion* – The Ordinance states “An ADU converted from a legally established accessory building or accessory structure is allowed to maintain non-conformity to the same location and dimensions of the existing accessory building or accessory structure....” However, Government Code section 66323, subdivision (a)(1)(A) allows, an “expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.” Therefore, the City must amend the Ordinance to allow for the expansion of an accessory structure for ingress and egress.
5. 23.306.030 A.8, 23.306.040 A, 23.324.060 (C) – *Zoning Certificate* – The Ordinance states that, generally, “An application for an ADU or Junior ADU shall be allowed with a Zoning Certificate. Review must be completed within 60 days of submission of a completed application.” It also provides more specific conditions that engage with a zoning certificate, stating “Attached ADUs with height up to 25 ft. allowed with a Zoning Certificate,” allowing specific “...alterations of a lawful nonconforming existing structure or building that is an existing ADU or proposed to be converted to an ADU are permitted with a Zoning Certificate,” and allowing new windows or doors with “...a lawful nonconforming existing structure or building that is an existing ADU or proposed to be converted to an ADU... with a Zoning Certificate.”

The Ordinance states that the “review” will be completed within 60 days. The Ordinance does not specify that the review will end with an approval or denial within the 60-day period. The term “Zoning Certificate” is not defined or explained in Section 23.502.020, and it is unclear whether the review process is ministerial or discretionary. Government Code section 66317, subdivision (a) requires, that a “A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review. The permitting agency shall either approve or deny the application to create or serve an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the permitting agency receives a completed application.” Subdivision (b) further states that “If a permitting agency denies an application for an accessory dwelling unit or junior accessory

Jordan Klein, Director, Department of Planning and Development
Page 4

dwelling unit pursuant to subdivision (a), the permitting agency shall, within the time period described in subdivision (a), return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.”

Therefore, the City must amend the Ordinance to specify ministerial approval or denial within 60 days and add provisions for a denial process according to State ADU Law.

6. 23.306.030 B – JADU Entry – The Ordinance states “A Junior ADU shall be contained entirely within an existing or proposed single family dwelling or its attached garage and have no more than 500 square feet in floor area.” However, Government Code section 66333, subdivision (e) states, that local JADU ordinances must “Require a permitted junior accessory dwelling unit to include a separate entrance from the main entrance to the proposed or existing single-family residence.” Therefore, the City must amend the Ordinance to require a separate entrance to the JADU.
7. 23.306.030 B, 23.502.020 A.4.a – *JADUs and Enclosed Uses* – The Ordinance allows JADUs “within an existing or proposed single family dwelling or its attached garage....” It is later defined in Section 23.502.020 (A)(4)(a) as, “A unit that is contained entirely within the walls of an existing or proposed single family dwelling, or a single-family dwelling unit's attached garage.” However, Government Code section 66333, subdivision (d), provides a broader allowance, stating “For purposes of this subdivision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.” The City must therefore allow JADUs in other enclosed uses not limited to an attached garage. The City must amend the Ordinance accordingly.
8. 23.306.040 A and C – *Deed Restriction* – Ordinance section 23.306.040 A states “A completed application must include evidence of compliance with this Chapter, including development standards, deed restrictions, and neighborhood noticing.” Section 23.306.040 C states, “The property owner shall file a deed restriction with the Alameda County Recorder which states... 2. The ADU shall not be sold separately from the main building unless the conditions of BMC 23.306.040(0) ADUs Developed by a Qualified Nonprofit Developer are met; 3. The ADU... shall not be rented for a term that is shorter than 30 days.”

However, Government Code section 66317, subdivision (c) states, “No local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this section,” and section 66315 states “Section 66314 establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed....” Section 66314 does not require a deed restriction for a building permit; therefore, this section

Jordan Klein, Director, Department of Planning and Development
Page 5

of the Ordinance is not consistent with State ADU Law. The City may not give condition approval of an ADU application on the recordation of a deed restriction. Although the City may have other authority by which to require a deed restriction, this requirement may not be the basis of delay or deny an ADU application and the issuance of a building permit. Therefore, the City must amend the Ordinance accordingly.

Pursuant to Government Code section 66333, subdivision (c) the City shall, “[r]equire the recordation of a deed restriction, which shall run with the land...” The deed restriction is limited to the provisions of subdivision (c)(1) and (c)(2). The deed restriction for JADUs do not include a minimum 30-day rental term. Therefore, the City must amend the Ordinance accordingly.

9. 23.306.040 B – *Neighbor Noticing* – The Ordinance states “Notice of an ADU application shall be mailed 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 building permit application to the City... Notice shall provide the address of the project, allowable hours of construction, a link to the City’s ADU webpage, 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.”

However, Government Code section 66317, subdivision (c) states, “No local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this section,” and section 66315 states “Section 66314, establishes the maximum standards that a local agency shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in Section 66314, shall be used or imposed....” Section 66314 does not require neighbor noticing for an ADU building permit. Therefore, the City must remove this section.

10. 23.306.040 C.2 – *Separate Sale* – The Ordinance states “The ADU shall not be sold separately from the main building unless the conditions of BMC 23.306.040(D) ADUs Developed by a Qualified Nonprofit Developer are met....” Please note that Government Code section 66342 states “a local agency may also adopt a local ordinance to allow the separate conveyance of the primary dwelling unit and accessory dwelling unit or units as condominiums...” which are then subject to the standards listed in that section.
11. 23.306.040 C.3 – *JADU Terms* – The Ordinance states “The ADU and/or Junior ADU shall not be rented for a term that is shorter than 30 days....” However, Government Code section 66333 provides, “Notwithstanding Article 2 (commencing with Section 66314), a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit and shall do all of the following:” The section then

Jordan Klein, Director, Department of Planning and Development
Page 6

lists the provisions that are required to be in the JADU ordinance. The provisions do not require a minimum rental term of 30 days. Therefore, the City must amend the Ordinance accordingly.

- 12.23.306.040 C.4 – *JADU Owner Occupancy* – The Ordinance requires that the “Junior ADU or the Single Family Dwelling in which the Junior ADU is located shall be owner-occupied.” However, Government Code section 66333, subdivision (b) states, “Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.” Therefore, the City must note the exception.

In response to the findings in this letter, and pursuant to Government Code section 66326, subdivisions (b)(2)(A) and (b)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City’s response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 66326, subdivision (c)(1), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City’s efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 776-7541 or at mike.vangorder@hcd.ca.gov if you have any questions or would like HCD’s technical assistance in these matters.

Sincerely,



Jamie Candelaria
Senior Housing Accountability Unit Manager
Housing Policy Development Division

Enclosure

State ADU/JADU Law Statutory Conversion Table

New Government Code Sections	Previous Government Code Sections
Article 1. General Provisions	
66310	65852.150 (a)
66311	65852.150 (b)
66312	65852.150 (c)
66313	General Definition Section 65852.2 (j) 65852.22 (j)
Article 2. Accessory Dwelling Unit Approvals	
66314	65852.2(a)(1)(A), (D)(i)-(xii), (a)(4)-(5)
66315	65852.2 (a)(8)
66316	65852.2 (a)(6)
66317	65852.2 (a)(3), (a)(7)
66318	65852.2 (a)(9), 65852.2 (a)(2)
66319	65852.2 (a)(10)
66320	65852.2 (b)
66321	65852.2 (c)
66322	65852.2 (d)
66323	65852.2 (e)
66324	65852.2 (f)
66325	65852.2 (g)
66326	65852.2 (h)
66327	65852.2 (i)
66328	65852.2 (k)
66329	65852.2 (l)
66330	65852.2 (m)
66331	65852.2 (n)
66332	65852.23.
Article 3. Junior Accessory Dwelling Units	
66333	65852.22 (a)
66334	65852.22 (b)
66335	65852.22 (c)
66336	65852.22 (d)
66337	65852.22 (e)
66338	65852.22 (f)-(g)
66339	65852.22 (h)
Article 4. Accessory Dwelling Unit Sales	
66340	65852.26 (b)
66341	65852.26 (a)
66342	65852.2 (a)(10)



Planning and Development Department

June 3, 2024

Jamie Candelaria
Senior Housing Accountability Unit Manager
Housing Policy Development Division
California Department of Housing and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833

VIA EMAIL: Jamie.Candelaria@hcd.ca.gov

RE: Review of Berkeley's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, §§ 66313 - 66342)

Dear Ms. Candelaria:

We are in receipt of the Department of Housing and Community Development's ("HCD") May 3, 2024 letter reviewing the City of Berkeley's ("City") Ordinance No. 7,888-N.S. regarding Accessory Dwelling Units ("ADUs"). This letter constitutes the City's initial response, with additional follow-up actions identified below.

The City's responses fall within three categories: 1) substantive policy issues that require consultation with the City Council; 2) minor clarifying amendments to the Berkeley Municipal Code ("BMC") that staff will recommend for City Council consideration; and 3) responses to HCD's comments that refer to existing BMC sections and require neither City Council consideration nor BMC amendment.

1) Unit Allowance

HCD's letter states that the BMC must allow for the development of up to three additional dwelling units on a single-family property: one converted ADU; one detached, new construction ADU; and one Junior ADU.

BMC Section 23.306.020(B) (Accessory Dwelling Units—Applicability—Number Permitted) reflects HCD's guidance taken from the *Accessory Dwelling Unit Handbook* (December 2020), which stated plainly that the two new categories of ADU/JADU configurations allowed under subd. (e) "are not required to be combined"; an applicant seeking to construct both an ADU and JADU would have to choose between the two configurations in order to obtain ministerial

Jamie Candelaria
June 3, 2024
Page 2

approval. In July 2022, HCD revised its guidance without an intervening amendment to state law. On page 20, the *Handbook* now states that the four categories (A-D) *may* be combined, noting in an example that a “local governments must allow (A) and (B) together *or* (C) and (D) together.” The *Handbook* acknowledges that not all ADU categories must be permitted, and there is no indication in the *Handbook* that three ADUs must be permitted on a single-family lot. Therefore, the Berkeley language is consistent with both the original guidance from HCD, and with the more recent amended guidance. In addition, HCD’s October 17, 2022 letter to the City of Berkeley did not indicate any concerns with this Section, which was part of the BMC at the time.

Further, Government Code section 66323(a), which provides that a local agency shall ministerially approve an application for a building permit “to create *any* of the following,” followed by an enumerated list of by-right ADU types permitted, does not on its face require that the BMC allow for the development of *all* of these by-right ADU types on a single lot. Such an interpretation seeks to impermissibly rewrite Section 66323(a) by replacing “any” with “all.”

However, in light of HCD’s May 3, 2024 letter, City staff will seek City Council direction regarding the Unit Allowance section of the BMC no later than December 13, 2024.

2) 150 Square-Foot Expansion

HCD’s letter states that BMC 23.306.030(A)(1) applies a 150 square-foot expansion to the conversion of existing structures more broadly than permitted under State law.

While the City recognizes that State law expressly mentions only the conversion of an existing accessory structure, the City’s language is more permissive than the State’s, by allowing existing accessory structures, accessory buildings, and main buildings to utilize a 150 square foot expansion. During a May 22, 2024 call between HCD and City staff, HCD stated they would reevaluate the issue and follow up via email. In a follow-up email sent by Mike Van Gorder on May 30, 2024, HCD asked us to disregard finding #2 from the May 3, 2024 letter.

3) “Main Building” and Conversion

HCD’s letter states that the term “existing main building” refers to a single building, whereas State ADU Law refers to “existing multifamily dwelling structures,” and that the adjective “main” is not objective.

The Zoning Ordinance includes a Glossary which includes the following definition for “Main Building” (BMC 23.502.020(B)(11)(b)):

A building which is designed for, or in which is conducted, the primary use of the lot on which it is situated. In any residential district any dwelling, except an accessory dwelling unit, is the main building on the lot.

Jamie Candelaria
June 3, 2024
Page 3

The definition does not limit the number of buildings that may qualify as a main building on a lot, and staff does not interpret main building to mean just one building. The BMC refers to multiple main buildings on a lot throughout the code; for example, Table 23.304-4 includes the text, “on a lot with two or more main buildings with a dwelling unit.” Based on this definition, City staff believes this provision is wholly compliant with state law.

Nevertheless, in order to make it clearer that multiple buildings on a lot may qualify as a main building, City staff will recommend to Planning Commission and City Council an amendment to BMC 23.306.030(A)(2) to read:

“A building which is designed for, or in which is conducted, the primary use of the lot on which it is situated. In any residential district any dwelling, except an accessory dwelling unit, is ~~the~~ a main building on the lot.”

City staff will advance this recommendation to Planning Commission by September, 2024, which is then subject to consideration by City Council.

4) Accessory Conversion

HCD’s letter states that the City must amend the BMC to allow for the expansion of an accessory structure for ingress and egress, pursuant to Government Code section 66323, subdivision (a)(1)(A).

BMC 23.306.030(A)(1) allows for converted accessory structures, accessory buildings, and main buildings to maintain their nonconformities and, if the structure exceeds the size allowance, utilize a 150 square foot expansion. The City made a policy decision to be more permissive than State law and not to limit this expansion to ingress and egress, as ingress and egress are Building Code considerations and not regulated in the Zoning Code.

During a May 22, 2024 call between HCD and City staff, HCD stated they would reevaluate this issue and follow up via e-mail. In a follow-up email sent by Mike Van Gorder on May 30, 2024, HCD advised to remove the words “legally established” from BMC section 23.306.030(A)(3).

In light of HCD’s May 3, 2024 letter and follow-up clarification, City staff will seek City Council direction regarding this issue no later than December 13, 2024.

5) Zoning Certificate

HCD’s letter states that the term “Zoning Certificate” is not defined or explained in Section 23.502.020, that it is unclear whether the review process is ministerial or discretionary, and that the ordinance does not specify that the review will end with an approval or denial within the required 60-day period.

BMC 23.406 (Specific Permit Requirements) defines each of the specific types of permits required by the Zoning Ordinance, including Zoning Certificates. BMC 23.406.020(A) (Zoning

Jamie Candelaria
June 3, 2024
Page 4

Certificates--Purpose) states “A Zoning Certificate is a ministerial approval.” Further, the plain meaning of BMC 23.306.040(A), which states that “review must be completed within 60 days of submission of a completed application,” is that the application must be approved or denied within 60 days. For these reasons, City staff do not plan to advance any amendment to the BMC to address this issue.

Nonetheless, in light of HCD’s letter, City staff will seek further City Council direction with respect to this issue no later than December 13, 2024.

6) JADU Entry

HCD’s letter states that the BMC does not indicate that a separate entrance is a requirement of a JADU.

The definition of JADU included in the Glossary (BMC 23.502.020(A)(4)(a) *Junior Accessory Dwelling Unit (Junior ADU)*):

A unit that is contained entirely within the walls of an existing or proposed single family dwelling, or a single family dwelling unit’s attached garage. A Junior ADU *must include a separate exterior entrance* and, at minimum, an efficiency kitchen. A Junior ADU may include separate sanitation facilities or may share sanitary facilities with a single family dwelling.” (*emphasis added*)

Accordingly, City staff do not plan to advance amendments to the BMC to address this issue.

7) JADUs and Enclosed Uses

HCD’s letter states that the BMC allows JADUs within an existing and proposed single family dwelling or its attached garage, but not within other enclosed uses, as provided in State law.

City staff’s interpretation of the current BMC provision is that allowing a JADU within an existing or proposed dwelling necessarily includes enclosed uses within that dwelling. As such, staff do not believe any amendment is required.

Nonetheless, in light of HCD’s letter, City staff will seek further City Council direction with respect to this issue no later than December 13, 2024.

8) Deed Restriction

HCD’s letter states that the City may not condition approval of an ADU application on the recordation of a deed restriction, and that the requirement may not be the basis to delay or deny an ADU application and the issuance of a building permit.

Jamie Candelaria
June 3, 2024
Page 5

The BMC's requirement for the recordation of a deed restriction is not a condition of approval, but it is a requirement for a complete application. As such, the language meets standards specific to State law. However, in light of HCD's letter, City staff will seek further City Council direction with respect to this issue no later than December 13, 2024.

9) Neighbor Noticing

HCD's letter states that the City's requirement to provide public notice to neighbors violates State law because it may lead to delay or denial of an ADU application.

The current City practice includes sending a neighbor notice as an informational courtesy and does not change the application review process. City staff will recommend to Planning Commission and City Council an amendment to BMC. 23.306.040(A) to remove neighborhood noticing as a requirement of a complete ADU application. However, the City will continue the practice of sending courtesy notices as part of the ADU application processing.

City staff will advance this recommendation to Planning Commission by September, 2024, which is then subject to consideration by City Council.

10) Separate Sale

HCD's letter notes that State law permits the separate sale of ADUs as condominiums.

On May 14, 2024, City Council directed City staff to implement AB 1033, which would allow Accessory Dwelling Units (ADUs) to be sold separately from a primary unit. Staff plan to advance ordinance updates related to implementation of AB 1033 for consideration by Planning Commission and City Council.

11) JADU Rental Term

HCD's letter states that the BMC's prohibition on renting a JADU for a term shorter than 30 days is inconsistent with State law.

City staff will seek further City Council direction with respect to the rental of JADUs no later than December 13, 2024.

12) JADU Owner Occupancy

HCD's letter states the BMC does not include exemptions to the owner-occupancy requirement for JADUs located in properties owned by a government agency, land trust or housing organization.

City staff will recommend to Planning Commission and City Council amendments to BMC 23.306(C)(4) to include these additional owner-occupancy exceptions. City staff will advance

Jamie Candelaria
June 3, 2024
Page 6

this recommendation to Planning Commission by September, 2024, which is then subject to consideration by City Council.

In addition to the aforementioned responses, the City has noted that as of March 25, 2024, with the Chaptering of Senate Bill (SB) 477 (Chapter 7, Statutes of 2024), the sections of Government Code relevant to State ADU and Junior Accessory Dwelling Unit (JADU) Law have been re-numbered, and Staff will update the BMC to reflect those changes.

If you have any questions, please contact me at jklein@berkeleyca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'JKlein', is positioned above the printed name of the sender.

Jordan Klein
Director, Department of Planning & Development, City of Berkeley

cc: Mike Van Gorder, Housing Policy Analyst, California Department of Housing and
Community Development

Title 20 - ZONING
Chapter 20.80 - SPECIFIC USE REGULATIONS
Part 2.76 ACCESSORY DWELLING UNIT CONDOMINIUM

Part 2.76 ACCESSORY DWELLING UNIT CONDOMINIUM

20.80.181 Purpose and applicability.

This Part implements Government Code Section 66342, herein referred to as Assembly Bill 1033 (AB 1033). The purpose of this Part is to apply objective local development standards for subdivisions covered by AB 1033. This Part is applicable only so long as AB 1033 is operative.

Where this Part or AB 1033 conflict with any other provisions of this Code, this Part and AB 1033 shall control. Any development standard or requirement not specifically addressed by this Part or AB 1033 must conform to all other provisions of this Code and all other objective policies and requirements governing subdivisions.

(Ord. 31095.)

20.80.183 Permit required.

Pursuant to Government Code Section 66342, this Section provides for the streamlined approval for conversion of existing or new Accessory Dwelling Units (ADU) into condominiums. These condominiums shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Part or pursuant to Government Code Section 66341. No condominium conversion to a project shall be permitted in any district unless permitted in such district and without obtaining approval of a Parcel Map pursuant to the provisions of this Title and Title 19 of the San José Municipal Code.

(Ord. 31095.)

20.80.185 ADU condominium requirements.

Subject to the provisions of Section 20.80.180, to achieve the purposes of this Chapter, all projects shall conform to the following requirements:

- A. A maximum of two ADU condominium units shall be allowed on lots that presently allow ADUs, and could include an attached Accessory Dwelling Unit and/or a detached Accessory Dwelling Unit built in accordance with Part 2.75, (Accessory Dwelling Units), Chapter 20.80. In conjunction with the ADU condominium, the parcel map approved pursuant with this section may also include the subdivision of up to two primary dwelling units, in conformance with Part 8, Senate Bill 9 implementation, into condominiums. This allowance shall not exceed a total of four condominium units on each single-family, two-family or multi-family lot under any circumstances.
- B. All structures and buildings included as part of a condominium project shall conform to the building and zoning requirements applicable to the zoning district in which the project is proposed to be located. Designation of individual condominium units shall not be deemed to reduce or eliminate any of the building and zoning requirements applicable to any such buildings or structures.
- C. The condominium shall be created pursuant to the Davis-Stirling Common Interest Development Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

- D. The condominium shall be created in conformance with all applicable objective requirements of the Subdivision Map Act (Division 2 (commencing with Section 66410)) and all other objective requirements of this Part.
1. Neither a subdivision map nor a condominium plan shall be recorded with the county recorder without each lienholder's consent. The following shall apply to the consent of a lienholder:
 - a. A lienholder may refuse to give consent.
 - b. A lienholder may consent provided that any terms and conditions required by the lienholder are satisfied.
 2. Prior to recordation of the initial or any subsequent modifications to the condominium plan, written evidence of the lienholder's consent shall be provided to the county recorder along with a signed statement from each lienholder that states as follows:

"(Name of lienholder) hereby consents to the recording of this condominium plan in their sole and absolute discretion and the borrower has or will satisfy any additional terms and conditions the lienholder may have."
 3. The lienholder's consent shall be included on the condominium plan, or attached to the condominium plan that includes the following information:
 - a. The lienholder's signature.
 - b. The name of the record owner or ground lessee.
 - c. The legal description of the real property.
 - d. The identities of all parties with an interest in the real property as reflected in the real property records.
 - e. The lienholder's consent shall be recorded in the office of the county recorder of the county in which the real property is located.
- E. An Accessory Dwelling unit shall be sold or otherwise conveyed separate from the primary residence only under the conditions outlined in this Part and of Title 19 of the San José Municipal Code. Prior to approval of a parcel map, a home or property owners' association or similar entity shall be formed for any condominium project. The association shall, at a minimum, provide for the administration, management and maintenance of all common areas including landscaping, drive aisles and parking areas, maintenance of the exterior of all buildings, pool or common roof, the collection of dues, payment of public utilities not billed separately to each unit, and enforcement of standards within the project.
1. The owner of a property or a separate interest within an existing planned development that has an existing association, as defined in Section 4080 of the Civil Code, shall not record a condominium plan to create a common interest development under Section 4100 of the Civil Code without the express written authorization by the existing association.
 2. For purposes of this subparagraph, written authorization by the existing association means approval by the board at a duly noticed board meeting, as defined in Section 4090 of the Civil Code, and if needed pursuant to the existing association's governing documents, membership approval of the existing association.
- F. The applicant shall prepare a declaration of covenants, conditions and restrictions (CC&Rs) which shall be recorded and apply to each owner of a condominium unit within the project. The CC&Rs shall be recorded at, or prior to, the time of parcel map approval, and shall include all applicable conditions of approval and requirements of the City. The CC&Rs shall, at a minimum, provide:

1. That any amendment to the CC&Rs related to the conditions of approval or other requirements of this Chapter may not be approved without prior consent of the City.
 2. That there shall be an entity created (e.g., a property or homeowners' association) which shall be financially responsible for and shall provide for the effective establishment, operation, management, use, repair and maintenance of all common areas and facilities.
 3. A provision containing information regarding the conveyance of units and any assignment of parking, an estimate of any initial assessment fees anticipated for maintenance of common areas and facilities, and an indication of appropriate responsibilities for maintenance of all utility lines and services for each unit.
 4. A provision addressing the payment of utilities including water, sewer, gas and electricity by the homeowner or through the association.
 5. A provision requiring that any owner who rents his/her condominium unit shall conform to the homeowners' association which is responsible for management of the common areas and enforcement of the CC&Rs.
- G. In addition to such covenants, conditions, and restrictions that may be required by the Department of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:
1. Conveyance of units.
 2. Management of common areas within the project where common areas exist.
 3. A proposed annual operating budget containing a reserve fund to pay major anticipated maintenance, repair, or replacement expenses where shared common area infrastructure exists; and indicating the association fees needed for the operating budget and reserve fund.
 4. FHA regulatory agreement, if any.
- H. If an accessory dwelling unit is established as a condominium, the homeowner shall notify providers of utilities, including water, sewer, gas, and electricity, of the condominium creation and separate conveyance.
- I. The ADU shall comply with all applicable technical codes including the California Building and Fire Codes. Prior to approval of the parcel map, a safety inspection of the ADU shall be conducted as evidenced through issuance of a final Building Permit or a housing quality standards report from a building inspector certified by the United States Department of Housing and Urban Development.
- J. In addition to other application submittal requirements, the following information shall be provided:
1. Statement regarding current ownership of all improvements and underlying land.
 2. A site plan and boundary map showing the location of all existing easements, structures, mature and/or scenic trees, and other improvements upon the property.
 3. Dimensions and location of each building or unit and the location of all fences and walls.
 4. The location, size, and design for all common areas, including all facilities and amenities provided within the common areas for use by unit owners.
 5. Location and condition for all paved areas, including pedestrian walkways.
 6. Maintenance plan of all buildings and common areas and facilities.

(Ord. 31095.)

Communications

From: Office of the Director of Police Accountability
Sent: Wednesday, February 19, 2025 1:31 PM
To: Planning Commission
Subject: RSVP for "Honoring Black Voices, Advancing Justice"
Attachments: BHM Community Visioning Session Flyer .pdf

Dear Planning Commission Members,

As we continue to honor Black History Month, we are excited to invite you to an important community visioning session, **Honoring Black Voices, Advancing Justice**—hosted by the Office of the Director of Police Accountability. This event will offer an opportunity for reflection and discussion on the future of police accountability and public safety in Berkeley, with insights from **Equity in Policing Expert Carlton Mayers** and **City of Berkeley Diversity, Equity, and Inclusion Officer Rex Brown**.

We believe this session is a great opportunity for Planning Commission members to engage with crucial conversations around justice and equity, and we encourage you to participate in this vital community dialogue.

Location: Office of the Director of Police Accountability, 1900 Addison Street, 3rd Floor

Date & Time: Wednesday, February 26, 2025 | 6:00 PM – 8:30 PM

Space is limited:

- In-person attendance: 35 participants
- Virtual (Zoom): 40 participants (Zoom link provided upon registration)

To ensure your participation, please RSVP by Monday, February 24, 2025.

RSVP here: <https://tinyurl.com/odpabhbm>

We hope you will join us as we work together to create a more just, accountable, and inclusive future for all.

In Solidarity,

Office of the Director of Police Accountability
1900 Addison Street, 3rd Floor
Berkeley, CA 94704
(510) 981-4950

CONFIDENTIALITY NOTICE: This message, including any attachments, is intended solely for the use of the intended recipient(s) and may contain confidential information. If you are not the intended recipient or an authorized agent thereof, you are hereby notified that any dissemination, disclosure, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please immediately notify the sender by reply email and delete the message from your files.

Communications

From: Office of the Director of Police Accountability
Sent: Monday, February 24, 2025 4:47 PM
To: Office of the Director of Police Accountability
Subject: {EVENT REMINDER} Honoring Black Voices, Advancing Justice, a community visioning session hosted by the Office of the Director of Police Accountability_6:00 PM – 8:30 PM
Attachments: BHM Community Visioning Session Flyer.pdf; parking garages.PNG; free two hour parking.PNG

Dear Community Members,

This is a friendly reminder that our upcoming event, **Honoring Black Voices, Advancing Justice**, is just around the corner—**this Wednesday, February 26, 2025!** Don't miss this important opportunity to join the community for a visioning session hosted by the Office of the Director of Police Accountability. We are excited to engage with Equity in Policing Expert Carlton Mayers and City of Berkeley Diversity, Equity, and Inclusion Officer Rex Brown on crucial topics such as the future of police accountability and public safety in Berkeley.

Event Details:

- **Date & Time:** Wednesday, February 26, 2025 | 6:00 PM – 8:30 PM
- **Hybrid**
 - **Location:** Office of the Director of Police Accountability, 1900 Addison Street, 3rd Floor
 - **Zoom**

Space is limited, and we need your RSVP by TODAY—Monday, February 24, 2025, to secure your spot.

- **In-person attendance:** 35 participants
- **Virtual (Zoom):** 40 participants (Zoom link will be provided upon registration)

RSVP now to ensure your participation: <https://tinyurl.com/odpabhm>

Please Note:

- **Parking:** Limited parking is available on-site. We encourage carpooling or public transportation when possible (Please see attached maps for off-site parking locations).
- **Food and Drinks:** Food and drinks with vegetarian and vegan options will be available.

We look forward to your participation as we work together to shape a more just and accountable future

In solidarity,

Office of the Director of Police Accountability
1900 Addison Street, 3rd Floor
Berkeley, CA 94704
(510) 981-4950

CONFIDENTIALITY NOTICE: This message, including any attachments, is intended solely for the use of the intended recipient(s) and may contain confidential information. If you are not the intended recipient or an

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BERKELEY WELLNESS BLUEPRINT COMMUNITY HEALTH ASSESSMENT

ACKNOWLEDGEMENTS

This Community Health Assessment is the result of robust input and partnership from all of the individuals below:

Berkeley Health, Housing, and Community Services Department

Tanya Bustamante, Interim Deputy Director

Janice Chin, Manager, Public Health Division

Kellie Knox, Future of Public Health Coordinator

Catherine Roseman, Public Health Promotion & Prevention Officer,
Community Services Specialist III

Patricia Zialcita, Supervising Epidemiologist

Community Steering Committee

Rosio Almaguer Andrade

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Alison Salomon

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TABLE OF CONTENTS

Introduction	1
Key Findings	5
Finding 1: There is a lot to be proud of when it comes to wellness in Berkeley	6
Finding 2: Diversity is highly valued and racism is deeply rooted	9
Finding 3: Health is connected to where people live	13
Finding 4: More transparency and collaboration are needed to increase trust and effectiveness of health improvement efforts	16
Finding 5: Berkeley is becoming a more difficult place for people to afford to live well	19
Finding 6: Connection and safety are essential for supporting mental and physical wellbeing	22
Conclusion	26
Appendices	28





In 2023, the City of Berkeley Health, Housing and Community Services (HHCS) Department engaged JSI Research and Training Institute (JSI) to lead a Community Health Assessment (CHA) and create a Community Health Improvement Plan (CHIP). Together, the CHA and CHIP processes are called the Berkeley Wellness Blueprint (BWB). This CHA document is the culmination of an extensive research process, guided by the community steering committee (CSC). The CSC is a diverse group of individuals who live and/or work in Berkeley who are committed to the city's health and wellness. They play a central role in ensuring the CHA and CHIP remain community-led. (For more details on the research methods and CSC members, see Appendix B & C.)

Taken as a whole, Berkeley looks like a pretty healthy place, but that misses the ways in which health in the city is significantly worse for some groups of people, in certain neighborhoods, and for people experiencing specific health and social challenges. This CHA report aims to present a snapshot of health, safety, and equity in Berkeley informed by data. It also seeks to highlight community perspectives on key topics in a way that is easy to digest. Ultimately, this will lay the foundation for the development of the CHIP.

BERKELEY AT A GLANCE

Berkeley is a vibrant city in the heart of the San Francisco Bay Area, known for its progressive politics, social and academic innovation, culture and history. Home to over 121,000 people, Berkeley's diverse population reflects a multitude of racial and ethnic groups, with nearly half (48%) identifying as non-white. The city is also home to a significant immigrant community: more than one out of every five residents (22%) was born outside of the United States and over 6% of the population has limited English proficiency. Berkeley is also home to the world-renown University of California, Berkeley. A large number of students and staff associated with the university live in Berkeley, and account for approximately one-third of the overall population. (See Appendix A for a city health profile).

121,385
Total Population

Source: US Census Bureau ACS 5-year 2018-2022

6.4%
of People ages 5+
Limited English Proficiency

Source: US Census Bureau ACS 5-year 2018-2022

Note: Limited English Proficiency is defined as speaking English less than "very well."

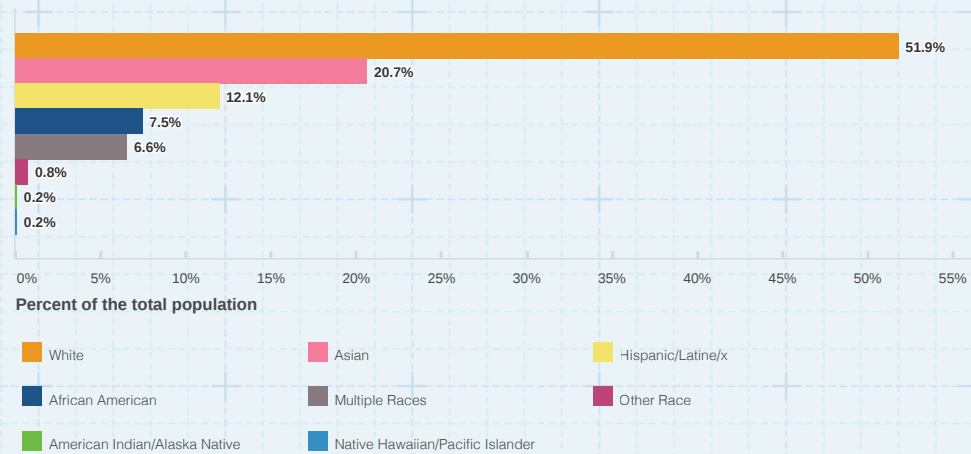
21.5%
Immigrant Population

Source: US Census Bureau ACS 5-year 2018-2022

51.8%
Bachelor's Degree

Source: US Census Bureau ACS 5-year 2018-2022

Percent of the Population by Race/Ethnicity

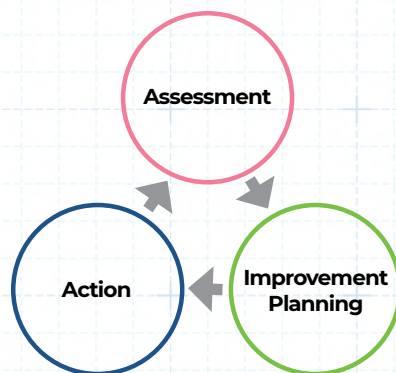


Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

PURPOSE AND PROCESS

This assessment is one part of a health and wellness improvement process that is intended to be repeated over time (see Figure 1). We decided to use the metaphor of a blueprint because there are parallels to building a physical structure. First, information is gathered and a vision is developed (Assessment); then, specific and workable plans are drawn (Improvement Planning); and finally, work begins (Action). Similar to a building process, new information and challenges will emerge along the way that require consideration and problem solving. It is crucial to have clear accountability and space for collective thinking and course correction.

FIGURE 1: Health and Wellness Improvement Process



GOALS OF THE COMMUNITY HEALTH ASSESSMENT (CHA)

The goals of this CHA phase are to:

- Engage community members in deepening shared understanding of the health and wellness status of Berkeley residents;
- Gather existing data on health, resiliency, and equity in Berkeley's communities; and
- Have enough information at the end of this phase to make an informed decision on priorities for the CHIP.

FRAMEWORK

There are a range of factors that shape health, safety, and equity in a city like Berkeley. In the Berkeley Wellness Blueprint, we are thinking about three groups of factors:



INDIVIDUAL: What does each person need to be healthy and flourishing?
Examples: access to affordable culturally appropriate services, ability to afford basic needs, opportunities for connection and belonging.



COMMUNITY: What are the characteristics of communities that support individual health?
Examples: safe and appealing parks, enough affordable housing, clean air and water.



SYSTEMS: How do systems and policies support the health of communities and individuals? **Examples:** How are harmful products and substances controlled? How are historic racist housing policies being addressed? How are resources distributed throughout the city?

These domains are useful both to understand what is currently happening and to organize action. For example, if we were trying to increase physical activity in Berkeley, we might focus on getting information about exercise classes into doctor's offices (individual), cleaning up parks in areas of the city with low physical activity rates (community) or providing additional funding to afterschool sports programs (systems). In many cases, effective solutions are going to involve strategies in more than one domain.

CHA PROCESS

This report comes at the end of a data collection and analysis process that began in fall of 2023. JSI and the CSC, with substantive input from the Berkeley HHCS team, have:

- Reviewed existing reports related to health and wellbeing in Berkeley, such as the Alameda County Department of Public Health health assessment;
- Searched databases of health information including the census and national health interview survey as well as locally collected data;
- Conducted over 15 interviews with local leaders and community members;
- Held 4 community focus groups; and
- Fielded a community wellness survey completed by over 320 community members from across Berkeley.

PRIORITY POPULATIONS, HEALTH TOPICS, & THE COMMUNITY SURVEY

Following an initial data review and first round of key informant interviews (n=16), several priority populations were identified by JSI and the CSC.

Priority Populations

An extra emphasis was placed on including information and perspectives from these populations.

- Black/African American people
- Latine/Latinx/Hispanic people
- LGBTQIA+ people
- Residents of South and West Berkeley
- Youth

Individuals from these priority populations were engaged via focus group discussions (n=4), additional interviews (n=6) and were target audiences for the community wellness survey (n=320). The reports, data review, interviews, and focus groups were analyzed by JSI and the CSC.

From that analysis, ten topics were identified (see right sidebar) that shaped the community-wide health survey. The survey aimed to gather a diverse range of perspectives on these topics. More details on the CHA methods, including the survey development and response, are available in the appendices.

TABLE 1: HEALTH TOPICS

Community Safety: how often people get hurt or experience violence and whether everyone feels safe in all areas of Berkeley

Disparities in Health: some people have better or worse health based on their race, ethnicity, and/or where they live in Berkeley

Drugs and Alcohol Use: use, misuse, and availability of legal and illegal drugs and alcohol, and if people can get the help they need

Environmental Health: being safe from things like pollution and wildfires, having clean air, water, and land, having access to parks and green spaces, and dealing with the effects of climate change

Government Responsiveness: City follow through and communication on health projects, and how much Berkeley residents help make decisions

Housing: being able to live in a place that is safe, affordable, and stable

Jobs and Money: having a steady job that pays enough for food, childcare, healthcare, school, and savings

Mental Health: how common mental health problems are (like depression, anxiety, and stress), and if people can get the care they need

Physical Health: how often people get sick, hurt, or have long-term health problems, and if they can get the care they need

Sense of Belonging: feeling included, respected, and connected

Key Findings

KEY FINDINGS

At the conclusion of the community survey, JSI and the CSC systematically reviewed all of the data collected via survey, interviews, focus groups, reports and statistics. Based on that review, a set of 6 key findings emerged. Although not all of the input, data and voices could be included in full detail, this report summarizes the information as best as possible to tell a clear story of the current situation and perspectives in Berkeley regarding health and wellness.

Finding 1: There is a lot to be proud of when it comes to wellness in Berkeley

Finding 2: Diversity is highly valued and racism is deeply rooted

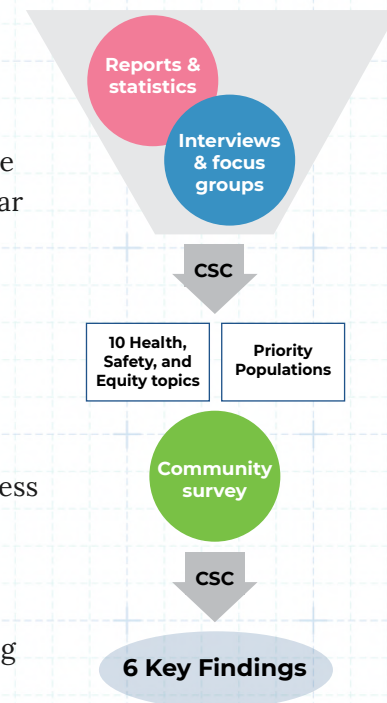
Finding 3: Health is connected to where people live

Finding 4: More transparency and collaboration are needed to increase trust and effectiveness of health improvement efforts

Finding 5: Berkeley is becoming a more difficult place for people to afford to live well

Finding 6: Connection and safety are essential for supporting mental and physical well-being

FIGURE 2: CHA Process



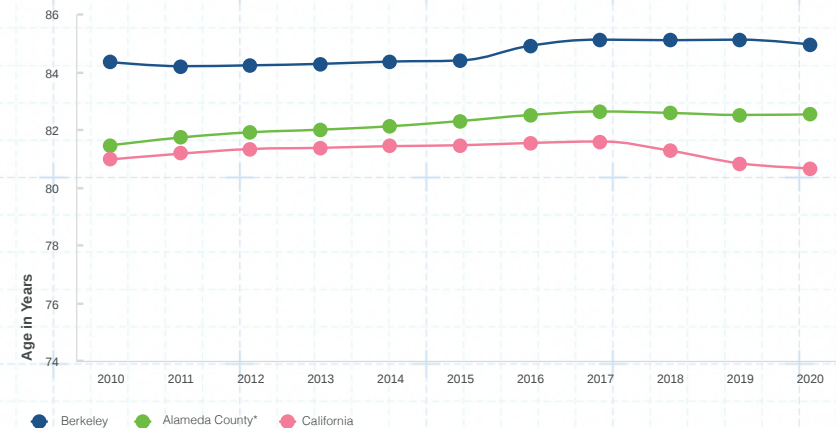


FINDING 1

There is a lot to be proud of when it comes to wellness in Berkeley

Berkeley residents consistently highlight three strengths that contribute to the city's health and wellness: its inviting physical environment, the diversity and character of its people, and the effectiveness of local community organizations. Citywide health statistics are generally positive compared with other geographies. For example, Berkeley has consistently had a higher life expectancy than Alameda County and California (see figure 3).

FIGURE 3: Life Expectancy at Birth



Source: California Department of Public Health, California Community Burden of Disease and Cost Engine *Estimates are for Alameda County excluding Berkeley

PHYSICAL ENVIRONMENT

In Berkeley, it's easy to step outside and find a place to walk, roll, or simply breathe. Home to 59 parks, Berkeley boasts almost 6 parks per square mile.¹ The community sees this as more than convenience—these walkable, wheelable routes bring people closer to nature, reduce stress, and create a more connected environment. The numbers support these general sentiments: Berkeley stands out for its high walkability, scoring 15.9 on the Environmental Protection Agency's Walkability Index - surpassing the county (14.2), state (12.4) and national (9.8) averages.²

"There's so many pretty places to go. And it's right on the water. There's the Berkeley Marina. I have great memories there with my dog and my kids at different stages in our life"

- FOCUS GROUP PARTICIPANT

Berkeley is filled with places where people naturally come together. Whether it's a farmers market, the Ed Roberts Campus, a church, or a senior center, these gathering spots foster a strong sense of belonging. They are spaces where people connect, feel seen, and know they belong.

"Quiero [tratar de] relacionarme con gente, platicar con gente, eso mismo como que te va a ayudar a no hundirte y hay unas tiendas donde puedes encontrar ese ambiente, donde se puede simplemente [conversar]."

- FOCUS GROUP PARTICIPANT

Translation: "I want to [try] to relate with people, talk to people, that will help to not further dig into a hole and there are stores where you can find that environment, where you can simply [converse]."



COMMUNITY MEMBERS

At the heart of Berkeley's community are the people who live here. Residents describe themselves and their neighbors as resilient, caring, diverse, and passionate, from people looking out for one another to city leaders' commitment to the city. Berkeley also has a proud tradition of activism. It was the first city to start municipal recycling, make sidewalks wheelchair accessible, and implement a sugar-sweetened beverage tax. Residents engage with issues of justice and equity both historically and today. This dedication to advocating for change strengthens the entire community and inspires future generations to continue the work of creating a better, more inclusive city.

"The community is really connected [...] even if [...] we don't know each other, the people from the Todos Santos de Cuchamatán are united. So if one of our community members is hurting or in danger or their family member had an accident and they need support and anything."

- COMMUNITY INTERVIEW PARTICIPANT

COMMUNITY ORGANIZATIONS

Community organizations—such as the Multicultural Institute, Center for Independent Living, and Healthy Black Families—bring a feeling of connectedness and support the Berkeley community to feel healthy, well, seen and understood. They are powerful resources, providing essential support, services, and advocacy. In many ways, community residents see these organizations as the backbone of Berkeley's health and wellness, working to meet the diverse needs of the community and foster a sense of belonging for all.

"I was going to the food pantries. I have 3 kids and it's all different types of people and the volunteers that work there are so kind they never make you feel less than, are always smiling, and they really love what they do."

- FOCUS GROUP PARTICIPANT





FINDING 2

Diversity is highly valued and racism is deeply rooted

Berkeley has a reputation as a diverse and welcoming city, not afraid to be at the vanguard of social and cultural movements. This diversity is a source of pride and a significant strength to the community. Activists and leaders in Berkeley continue to work on a range of issues through many initiatives. However, as in other places, issues related to demographics and identity are complicated and reflect historical and structural factors that are difficult to address. The data on disparities in health make both the magnitude of advantages based on race/ethnicity and opportunities for improvement abundantly clear—the greatest opportunities to advance wellness in Berkeley lie in improving health among people who experience the worst outcomes.

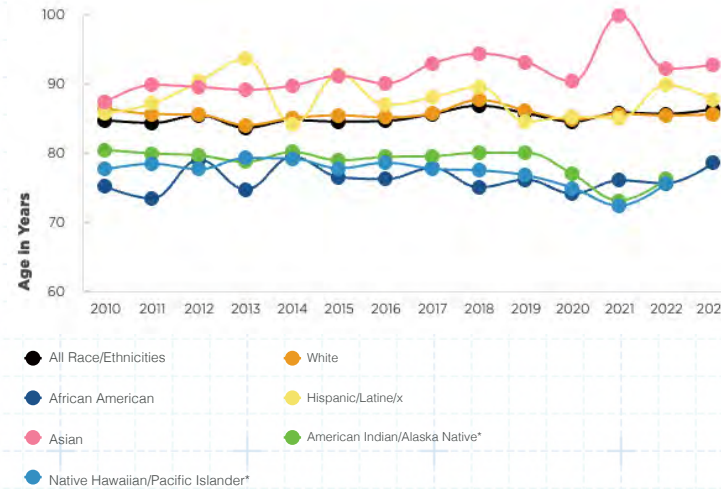
“I love Berkeley because of the diversity...I just appreciate how open Berkeley is. Ideas and different types of people.”

- FOCUS GROUP PARTICIPANT

DISPARITIES ACROSS RACIAL GROUPS

Across nearly every indicator of health and wellbeing collected for Berkeley there are significant differences for racial and ethnic groups. For the most comprehensive health indicator, life expectancy at birth, African Americans have consistently been projected to live 9 fewer years than the overall city average. It is also estimated that the life expectancy among American Indian/Alaska Native (AI/AN) and Native Hawaiian/Pacific Islanders (NH/PI) is significantly lower than the overall life expectancy of Berkeley residents based on California data (see Figure 4). African American residents also have higher rates of many health conditions, including diagnoses for common cancers (breast, prostate, lung) and chronic conditions such as diabetes.³

FIGURE 4: Life Expectancy at Birth in Berkeley



Source: City of Berkeley Public Health Officer Unit, Epidemiology & Vital Statistics, US Census Bureau

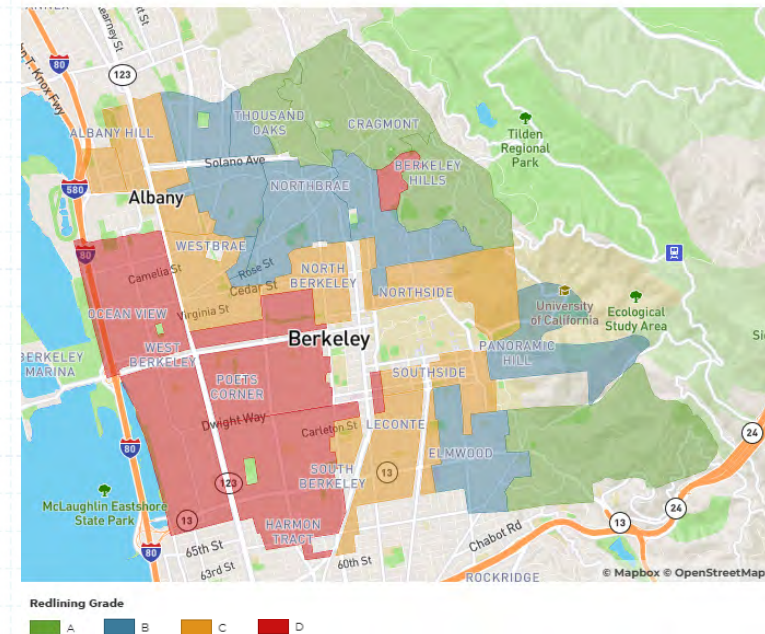
*Due to small population sizes, life expectancy estimates presented for American Indian/Alaska Native and Native Hawaiian/Pacific Islander are based on data for the entire State of California.

Health disparities are the result of decisions, practices, and policies enacted over time that provide unjust advantages to some based on race and ethnicity, geography, and/or socioeconomic status. Any data point that highlights differences by race should be taken as a measure of the effects of racism.⁴ This type of **systematic racism** is evident across all sectors including housing, education, employment, and law enforcement. For example, numerous housing policies in Berkeley restricted non-white residents to certain neighborhoods and limited their ability to build wealth through property ownership (see Figure 5). The city's recent Preferential Housing Policy⁵ acknowledges and attempts to respond to a number of these historical policies. Similarly, the Berkeley Unified School District's Reparations Task Force⁶ looked at structural racism in education.

"There's a lot of redlining in [Berkeley]...I think historically, if we have a community that has been here long enough to remember the train tracks and they talk about not crossing the train tracks, that is generational...it's historical trauma that they experienced."

- FOCUS GROUP PARTICIPANT

FIGURE 5: Historical Redlining Grades



Redlining, a practice sanctioned by the federal government from the 1930s until the late 1960s, systematically denied access to mortgages, not only to individuals but to entire neighborhoods, based on their racial and ethnic composition. The above map of the City of Berkeley shows how neighborhoods were rated for mortgage lending using this practice. Red areas were labeled “hazardous” and deemed the riskiest for lending. Yellow areas were considered “declining” with elevated risk. Blue areas were marked as “still desirable” with lower risk, while green areas were identified as the “most desirable” and least risky.

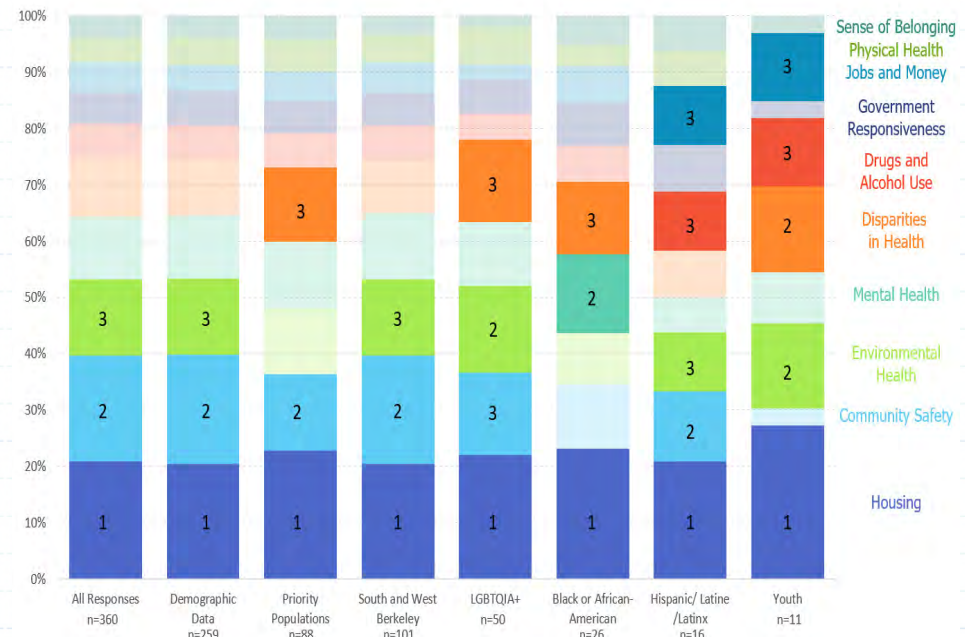
DIFFERENT PERSPECTIVES

Based on survey data and input from focus groups and interviews, it is clear that members of identified priority populations view their own health and the health of their communities differently from other Berkeley residents. For example, of the ten health topics (See Table 1), mental health ranked as the second highest priority for African American survey respondents, but it did not make the top three in the overall survey results. Similarly, drugs and alcohol use ranked among the top three priorities for both Hispanic/Latine/ Latinx respondents and youth respondents, yet it fell into the bottom half of priorities in the overall results. Disparities in health was another high-ranking concern among priority populations, placing third for African American respondents and LGBTQIA+ respondents and tying for second among youth, but it fell outside the top three in the overall rankings (See figure 6).

“As a person of color and minority, I have experienced or know others who have experienced worse living conditions or limitations in access to health and resources because of socioeconomic factors in which race plays an important role, historically speaking.”

- COMMUNITY SURVEY RESPONDENT

FIGURE 6: Community Survey Responses by Population



Differences are also reflected in responses to other community survey questions. For instance, 20% fewer youth agreed with the statement “Berkeley residents have access to resources necessary to be healthy” compared to the overall survey results. Similarly, nearly 40% fewer African Americans agreed with the statement, “Overall, I’m satisfied with my quality of life [health, comfort, happiness] in Berkeley.”



Berkeley has neighborhoods with distinctive geographic, architectural, and cultural features that elicit strong feelings of connection from residents. However, some neighborhoods in the city face greater health challenges than others. South and West Berkeley residents, in particular, experience worse health outcomes and face more environmental hazards compared to those in the North and East, underscoring the importance of addressing geographic inequities to improve community health.⁷

LIFE EXPECTANCY

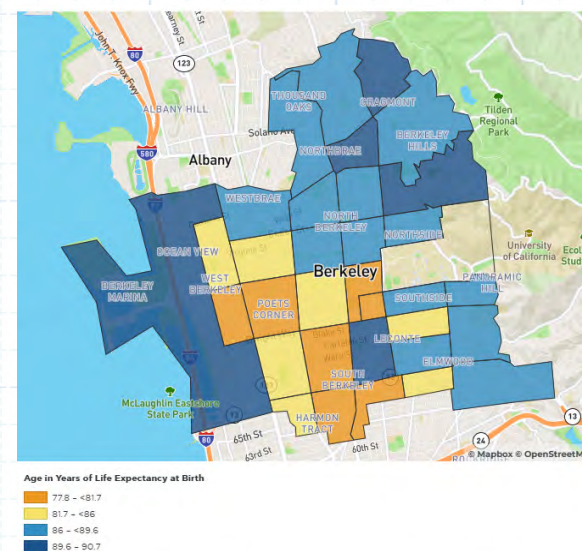
The average Berkeley resident can expect to live to age 86 (see Figure 4), an impressive number that reflects the city's overall health. However, this longevity is not evenly distributed. Residents in the Berkeley Hills, where resources are more abundant, have the highest life expectancy in the city, with one census tract averaging 91 years. In contrast, residents in South and

West Berkeley face significantly shorter life expectancies; one tract averages just 78 years – a striking 13-year gap (see Figure 7).

“I live in a part of the city that sometimes feels as if it is not as well-resourced as other parts of the city, and I'd like to see a more equitable distribution of resources”.

- COMMUNITY SURVEY RESPONDENT

FIGURE 7: Life Expectancy at Birth by Census Tract



Source: City of Berkeley Public Health Officer Unit, Epidemiology & Vital Statistics, US Census Bureau 5-year estimate 2019-2023
Note: Life expectancy for the census tract where the University of California, Berkeley campus is located is omitted because a very small number of people actually live in this census tract.

ENVIRONMENTAL RISK

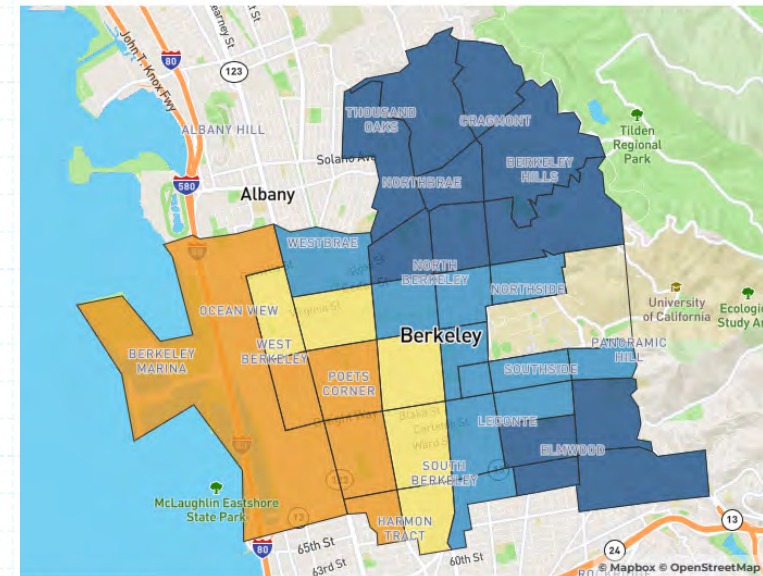
Berkeley faces significant environmental risks, which are unevenly distributed across the city and exacerbated by climate change. Areas in West and Southwest Berkeley are disproportionately burdened by pollution, including diesel exhaust from vehicles, toxic emissions from facilities, and hazardous chemicals from cleanup sites (see Figure 8). These areas experience higher rates of asthma-related hospitalizations compared to the rest of the city.⁸ Meanwhile, in the eastern, wealthier neighborhoods, residents face growing wildfire risks due to changing weather patterns and drier conditions.⁹

“Climate change is the number one collective issue impacting all of us. Low-income communities of color are disproportionately impacted and need support to be safe during these precarious times.”

- COMMUNITY SURVEY RESPONDENT

In addition to these localized hazards, Berkeley as a whole is increasingly affected by worsening air quality. Climate change has led to more frequent and severe wildfire seasons in California, causing spikes in particulate matter and “bad air days” that pose serious health risks for everyone, particularly children, the elderly, and those with pre-existing respiratory conditions. However, as highlighted throughout this report, some communities face greater risk due to social vulnerability, leaving them less equipped to withstand these environmental hazards (see Figure 9).

FIGURE 8: Environmental Hazard Vulnerability Percentile by Census Tract



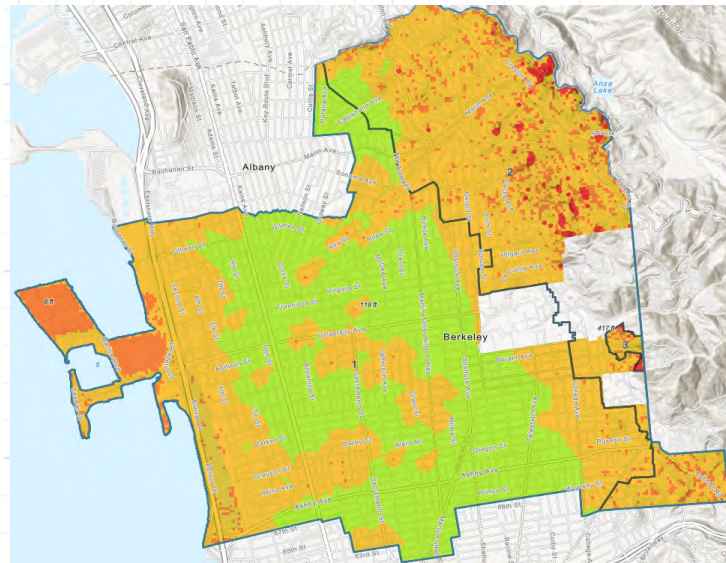
CalEnviroScreen 4.0 Percentile



Source: California Office of Environmental Health Hazard, CalEnviroScreen 4.0 2021

Note: The CalEnviroScreen 4.0 percentile for the census tract where the University of California, Berkeley campus is located is omitted because there is a very small number of people that actually live in this census tract

FIGURE 9: Integrated Fire Hazard by Berkeley Fire Zones



Integrated Fire Hazard
Lowest Value Highest Value

Green Yellow Orange Red

Source: City of Berkeley's Community Wildfire Protection Plan (CWPP) Community Base Map, last updated 2023
Note: The percentile for the census tract where the University of California, Berkeley campus is located is omitted because there is a very small number of people that actually live in this census tract

In the community survey, the environmental health topic emerged among the top three for both the general population and for many of the priority populations. It was ranked as the third most important topic area for South and West Berkeley residents and the Hispanic/ Latine/ Latinx community, and it emerged as the second most important topic for LGBTQIA+ and Youth respondents (See figure 6). Community survey respondents also highlighted climate change as a key area of concern and a desire for more efforts like the Climate Action Plan¹⁰ that reflect commitment to broader climate action.

“If you die in a fire or have your health ruined from breathing polluted air, the question of how much you enjoy living here becomes no longer relevant.”

- COMMUNITY SURVEY RESPONDENT

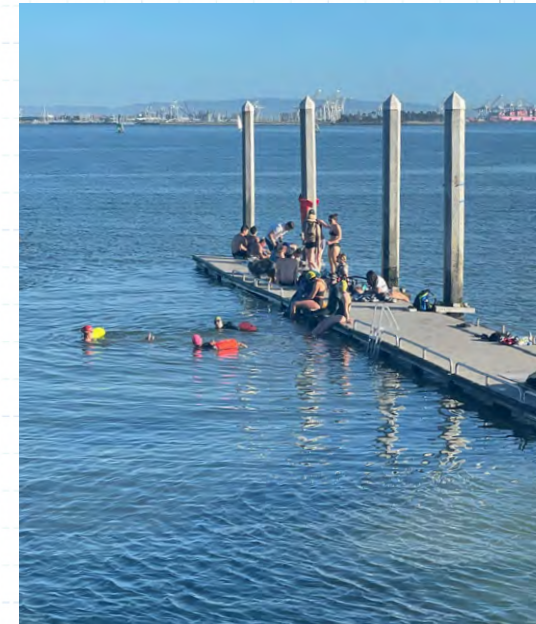
FINDING 4

More transparency and collaboration are needed to increase trust and effectiveness of health improvement efforts

Berkeley is known for a very active and participatory political culture. Robust debates and campaigns are not uncommon on a range of topics. There are more than 30 boards and commissions to guide aspects of public decision making. Berkeley is also one of only three cities in California to have a Public Health Department, along with Long Beach and Pasadena. This is intended to allow for more responsiveness to community needs. However, there are substantive concerns about capacity and follow-through when it comes to community collaboration.

“Even though Berkeley has some incredibly difficult bureaucracies to deal with... when you can make contact with an individual, you feel seen and heard and cared for, which is not what I’ve experienced in other cities in California”

- COMMUNITY INTERVIEW PARTICIPANT



CAPACITY

Most sentiments about city employees were positive, though there was a consistent thread about agencies and departments being understaffed, over-stretched, and operating in limited siloes. Community members referenced limited capacity and lack of collaboration specifically around mental health, a topic where residents see a lot of complexity and barriers to service. Barriers mentioned included limited coverage, the need for different providers depending on condition and severity, and lack of integration with physical health and other social services such as housing.

"If Multicultural Institute wasn't here. If Berkeley Food Network wasn't here offering the food to folks. If Lifelong wasn't offering those services, who would be offering the services? Would the city have the capacity and the ability to offer services the way that our community organizations are able to offer it in a more appropriate way...the answer right now I think is no, right?"

- COMMUNITY INTERVIEW PARTICIPANT

Berkeley has diverse and strong Community Based Organizations (CBOs) that are deeply connected to communities. However, systems can be difficult to navigate for both clients and staff at these CBOs. Referrals across organizations of care require multiple steps and often organizations cannot share data with one another. Increased coordination with each other and the City would further their impact and efficiency. However, funding for developing and improving operations and collaboration is hard to come by.

PROCESS ACCOUNTABILITY

There are many planning and assessment processes underway at any moment in Berkeley. While seeking community input is an important step and intention, relationships are undermined when a process ends with simply identifying problems. Community members can feel frustrated and lose trust when they are not included in sharing power to design solutions or when there is little follow-up or communication about progress.

"A lot of requests are for the community to tell us your story and then in return, they feel like they don't get anything so...there's a feeling of hopelessness. If you're gonna promise people things, at the very baseline deliver on that promise."

- COMMUNITY INTERVIEW PARTICIPANT

PANDEMIC EFFECTS

The COVID-19 pandemic caused, or exacerbated, a wave of health, mental health, and social challenges that extended far beyond the direct deaths and illnesses it caused.¹¹ As one survey respondent put it, “Understand that all of us have PTSD from the pandemic.” Young people in particular are experiencing significantly higher rates of anxiety and depression.¹² For many, connections to neighbors and friends became a matter of life-or-death, especially for the most vulnerable, such as older adults, people with pre-existing conditions, and those who were unhoused. At the same time, the pandemic revealed both weaknesses and strengths in relationships between public agencies, CBOs, and the public. Efforts like rapid testing and masking protocols, brought these dynamics to light. Despite all the challenges, the pandemic taught some big lessons, like how important connection and resilience across systems are during extreme stress.



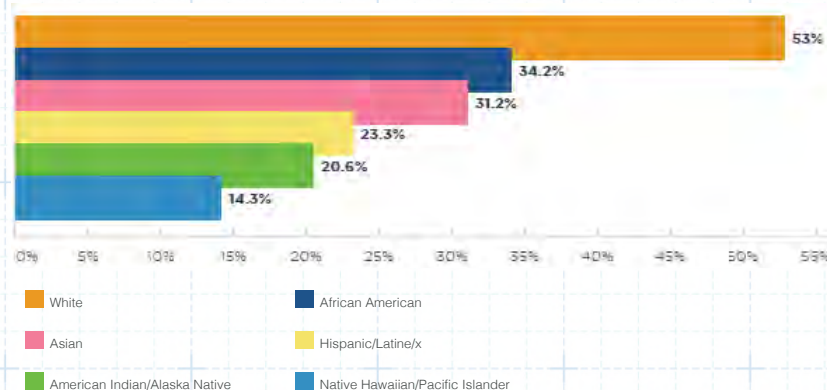


Berkeley residents feel strongly about their community and want their families to have the option to stay in the city. However, the high cost of living, particularly housing, has created a lot of stress, displacing long-time residents and forcing individuals and families to make difficult economic decisions. These decisions—like whether to prioritize spending on housing, utilities, food, or medicine—have profound impacts on health and wellbeing.

HOUSING AFFORDABILITY AND DISPLACEMENT

The rise in housing costs has significantly impacted Berkeley residents, forcing some to live in overcrowded conditions, move to other communities, or become unhoused. Displacement due to unaffordable housing can have serious health and social consequences, such as living in homes with health hazards, losing access to essential services, and becoming disconnected from communities of belonging.

FIGURE 10: Percent of Homeowners by Race/Ethnicity in Berkeley



Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

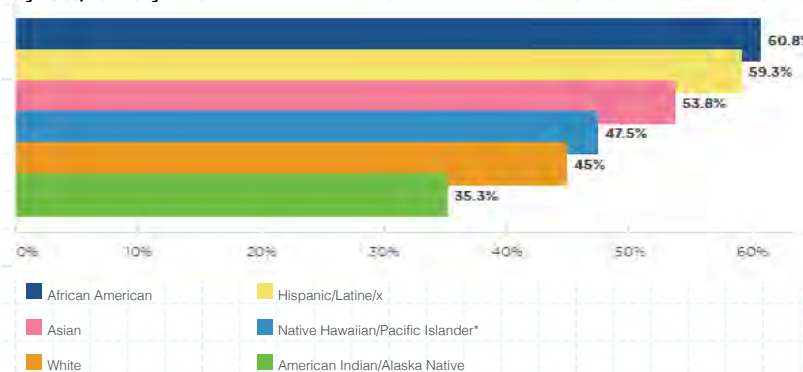
Importantly, rising housing costs have not affected all groups equally (see Figure 11). White residents, for example, are much more likely to own homes than other racial and ethnic groups (see Figure 10). This inequity is particularly felt by Berkeley's African American population, which has declined by more than 50% over the past 50 years.¹³ Today, African Americans make up just 7.5% of the city's population but account for over 40% of its unhoused residents. For African American residents who are housed, many face significant housing challenges, with the majority renting their homes (66%) and struggling to afford them. Over 60% of African American renters in Berkeley are considered housing cost burdened, meaning they spend more than 30% of their income on rent (see Figure 11).

UC Berkeley students, who account for a large share of the city's renters, also face challenges, with 10% of undergraduate and graduate students reporting being unhoused due to the high cost of living and education expenses.¹⁴

"There have been several people that I've met who are living in a car or staying with friends living on a couch, and if you don't have secure housing and food, you can't have good mental health. You can't have good health. You're stymied from the beginning."

FOCUS GROUP PARTICIPANT

FIGURE 11: Percent of Berkeley Households Paying More Than 30% of Their Income for Rent by Race/Ethnicity



Sources: US Department of Housing and Development, Comprehensive Housing Affordability Strategy Data 2017-2021

*Due to the small number of households that identify as Native Hawaiian/Pacific Islander, the percent shown for this race are based on data for the entire state of California.

Individuals who do not have stable housing have much worse physical and mental health outcomes and also affect the overall health of the city by overtaxing systems and services. While the city recently reported significant improvements¹⁵ in the number of unhoused individuals, the reality for those lacking shelter remains grave. Housing emerged as the top issue for both the overall survey respondent pool and for all five priority populations.

"Berkeley has so much affluence, but resources are not equitably distributed. I have seen many families of color leave my area in South Berkeley because the rent became too high to afford. Better public services and more affordable housing could allow people to stay in Berkeley."

- COMMUNITY SURVEY RESPONDENT

INCOME INEQUALITY

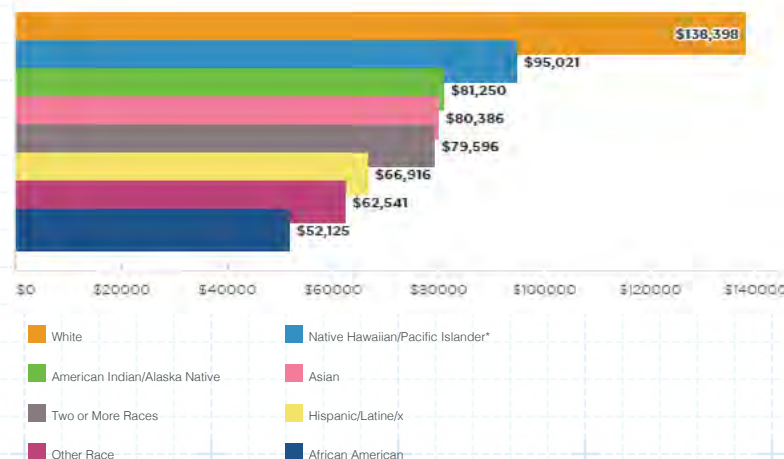
Median household income, a key measure of economic stability that is highly correlated with home ownership, is just under \$105,000 for the city overall; well above the median for the state (\$92,000) and the nation (\$75,000). However, this overall number masks significant disparities: when disaggregated by race and ethnicity, we see the median household income for African American households is \$52,000, not even half that of the citywide media (see Figure 12).

“We’re going on strike because we’re not getting paid salaries that are livable anymore. A lot of teachers are on strike as well because the wages aren’t affordable. No one could afford to live in Berkeley anymore. It’s a reality, right?”

- FOCUS GROUP PARTICIPANT

The median for Hispanic/Latine/Latinx households (\$67,000) is also much lower than the average. Much like life expectancy, median household income in Berkeley varies significantly by geography. Census tracts in the Berkeley Hills report the highest median household income levels (more than \$200,000) while census tracts in South Berkeley and West Berkeley report the lowest levels (less than \$100,000).¹⁶ In the community survey, the topic of jobs and money was near the bottom for the overall population, but it was ranked as the third most important topic by two priority populations: Hispanic/Latine / Latinx and Youth.

FIGURE 12: Median Income of Berkeley Households by Race/Ethnicity



Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

*Due to the small number of households that identify as Native Hawaiian/Pacific Islander, the percent shown for this race are based on data for the entire state of California.

There is a deep emotional component that underlies these statistics. The influx of white and affluent residents, that many describe as gentrification, threatens the character and long-standing narrative of Berkeley as home to an economically thriving Black and Brown community at the forefront of social movements.¹⁷ Although the toll of displacement is hard to measure, there is not only a need to prevent displacement but to remember the stories of the communities that shaped Berkeley into the place that so many people hold dear.

FINDING 6

Connection and safety are essential for supporting mental and physical wellbeing

Community safety ranked just behind housing in the community survey. Notably, the two highest-ranking topics are not directly related to health or within the jurisdiction of public health agencies. This suggests that members of the Berkeley community are thinking broadly about what determines health and how to achieve wellness. The responses to the survey and discussions in our focus groups and interviews about safety reflected a focus on reducing crime but also on reducing stress and creating spaces where people from diverse backgrounds can come together to build connections.

The violent crime rate in Berkeley has fluctuated over the years but has remained lower than rates in Alameda County, while rates of non-violent crime are consistently higher in Berkeley than the county as a whole (see figures 17 & 18). Crime, particularly violent crime, spiked upwards across the country during the COVID 19 pandemic and has since declined sharply. The city is in the midst of an extensive, community-involved process to reimagine public safety¹⁸ that includes holistic framing of safety and connection similar to this report.

“[I prioritized Community Safety because] I think it can be an indicator of community wellness. No, I do not think we need more police, nor do I think they need more funding. But I would love to see more funding for social services, including providing housing security for our unhoused residents.”

- COMMUNITY SURVEY PARTICIPANT

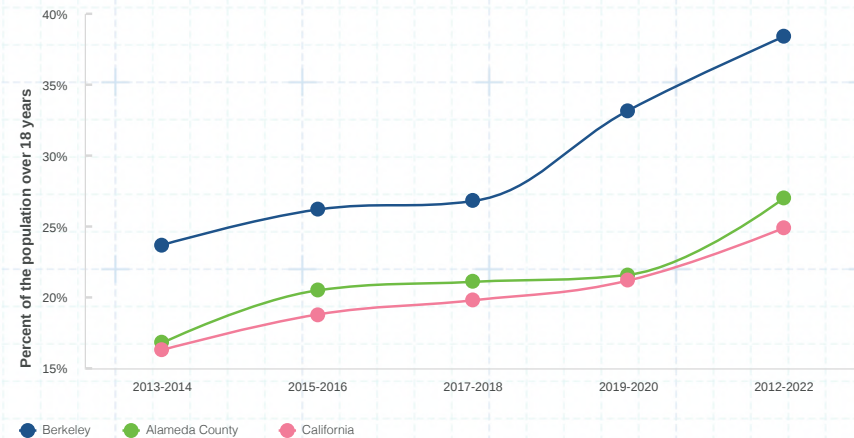
MENTAL HEALTH AND CONNECTEDNESS

Mental Health emerged as a significant concern, ranking as the fourth highest priority in the overall survey and the second-highest priority among African American respondents. Many participants correlated their mental health with feelings of safety and community connectedness and belonging. In addition, responses reflected a desire for responses that address a range of mental health issues from anxiety and loneliness to serious and persistent illness as well as the need for more mental health services that accept insurance and are culturally responsive. As with other issues discussed previously, there are significant disparities by race for mental health issues and service utilization (see Figure 14).

“When folks feel like they are part of a community, they’re happier, they feel more included. They feel overall better.”

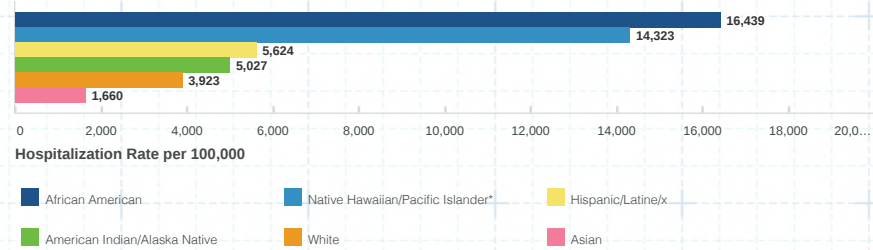
COMMUNITY INTERVIEW PARTICIPANT

FIGURE 13: Percent of Residents 18 Years Old+ that Needed Help for Mental Health Problems



Source: University of California, Los Angeles, California Health Interview Survey, Neighborhood Edition

FIGURE 14: Rate of Mental Health Related Hospitalization Among Residents 18 Years old+ by Race/Ethnicity in Berkeley



Source: California Department of Health Care Access and Information, Hospitalization Data 2020-2022, Esri Demographics 2020-2022

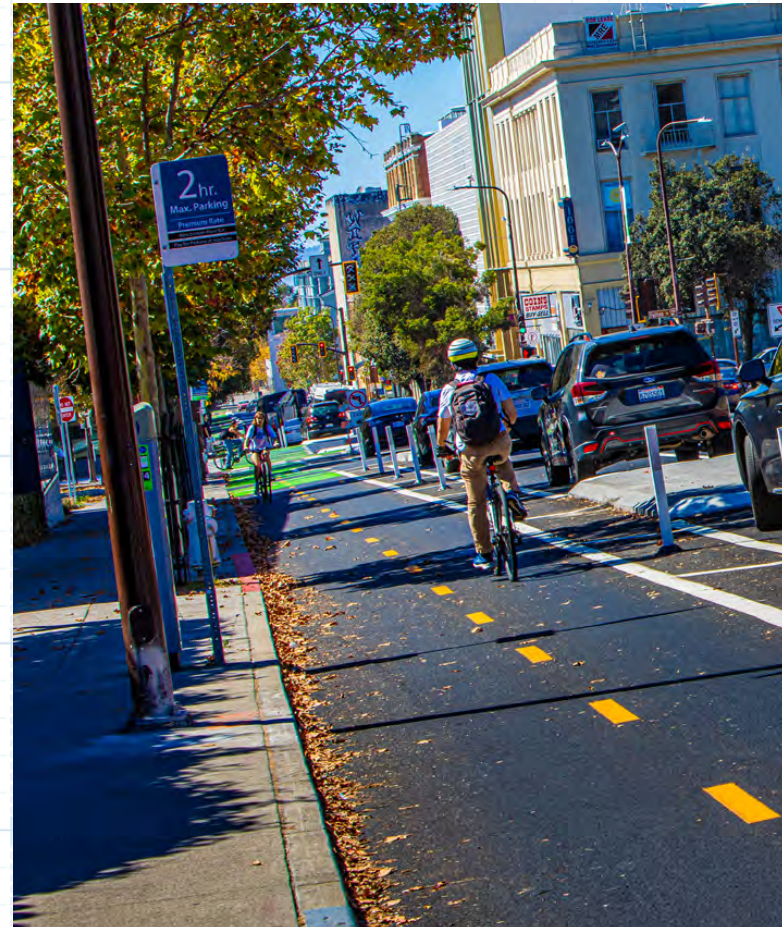
Note: Due to the small number of hospitalizations among residents 18 and older that identify as Native Hawaiian/Pacific Islander, the percent shown for this race are based on data for the entire state of California.

LGBTQIA+ SAFETY

Participants shared particular concerns about the health and safety of the LGBTQIA+ community, especially the mental health and personal safety of LGBTQIA+ youth. Young people who identify as LGBTQIA+ experience higher rates of attempted suicide, depression and anxiety. There are very few programs that provide mental health services to this demographic. Existing services may also not be set up to meet the specific needs of LGBTQIA+ people. For example, individuals who identify as nonbinary and/or trans may experience unsafe situations when seeking stable housing due to programs that separate based on male and female identities.

“[LGBTQIA youth have] over 120% higher chance of being unhoused than non-queer youth. Youth may feel the need to do survival sex work...LGBTQIA youth are at risk, they are a population that is not prioritized in funding...I want to see LGBTQIA youth prioritized as a population.”

- COMMUNITY INTERVIEW PARTICIPANT



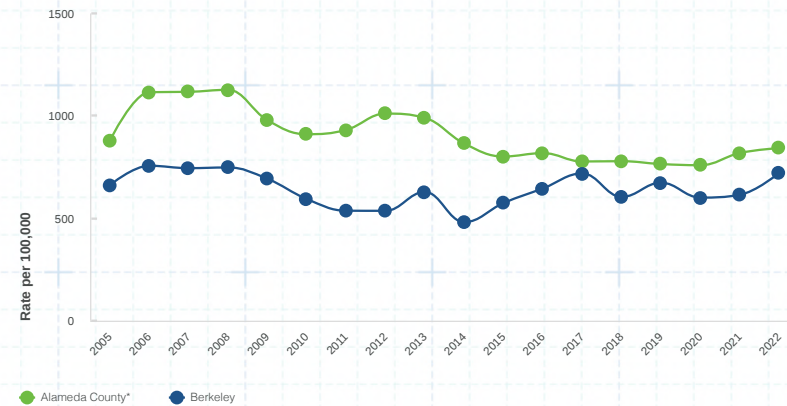
DIVERSE PERSPECTIVES ON SAFETY STRATEGIES

There are a range of ideas about how to improve safety in Berkeley including support for expanded resources for the Berkeley Police Department, a focus on community connected law enforcement, diversion of police resources into alternative response models, a focus on improving traffic safety, and a recognition that safety is connected to a number of other issues, like housing, economic security, and belonging. As noted above, many participants in this assessment discussed safety in terms of both physical and psychological effects and also in terms of individual, neighborhood and systems level solutions.

“... when we actually center connection and belonging as a public health matter, we can see that the community starts healing itself.”

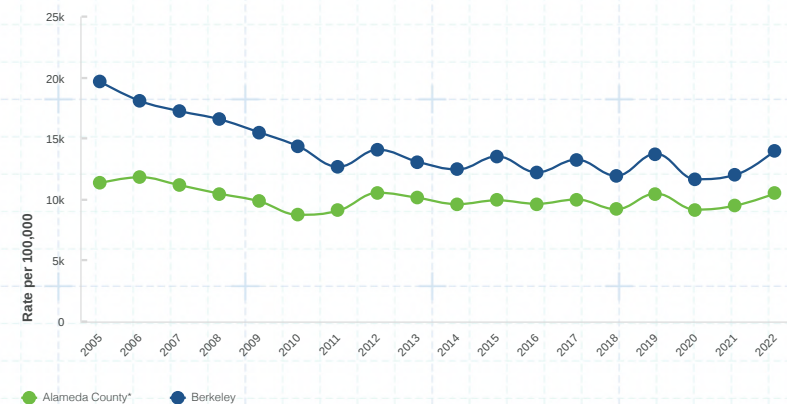
- COMMUNITY INTERVIEW PARTICIPANT

FIGURE 15: Rate of Violent Crimes



Source: State of California Department of Justice, OpenJustice Data Portal, Esri Demographics 2005-2022 *Estimates are for Alameda County excluding Berkeley

FIGURE 16: Rate of Non-violent Crimes



Source: State of California Department of Justice, OpenJustice Data Portal, Esri Demographics 2005-2022 *Estimates are for Alameda County excluding Berkeley



Berkeley is considered a great place to live, start a family, and grow old. Its physical and social environments make it a unique small city. However, there is still work to do to ensure that Berkeley is a place where all people thrive. The priority populations that were identified during the CHA process deserve particular focus and investment in order to advance and achieve health equity.

Participants in the CHA process expressed desire that the city of Berkeley provide sustainable investments to improve services, center community voice in non-extractive ways, encourage collaboration across community organizations, and work to change harmful systems.

Although the challenges are significant, with commitment and thoughtful allocation of resources, the Berkeley community can improve the ability of all residents—regardless of factors such as neighborhood, race, ethnicity, sexual orientation and gender identity— to live healthy, fulfilling lives.

Endnotes

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APPENDICES

Appendix A: Berkeley Health Profile

Appendix B: Methodology

Appendix C: Community Steering Committee Members and Bios

Appendix D: Participating Organizations

Appendix E: Principles

Appendix F: Qualitative Data Findings

Appendix G: Survey Findings

APPENDIX A: BERKELEY HEALTH PROFILE

This section includes a selection of data points relevant for understanding the landscape of wellness in Berkeley.

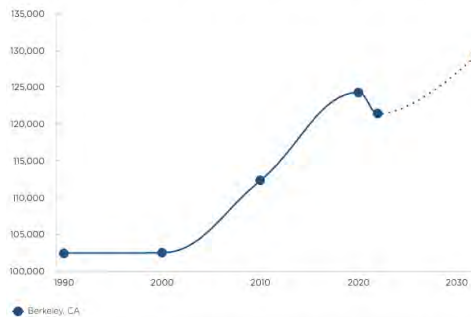
Demographics

The population of the City of Berkeley continues to grow. Close to half (48%) of Berkeley's population identifies as a race other than white.¹ Approximately one-third of Berkeley's overall population are students and staff associated with the world-renowned University of California, Berkeley.² Over 20% of the population are immigrants that speak a number of different languages (Spanish, Indo-European languages, languages from Asia and the Pacific Islands, etc.). The population is clustered by race/ethnicity and socioeconomic status across the city map.

¹ US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

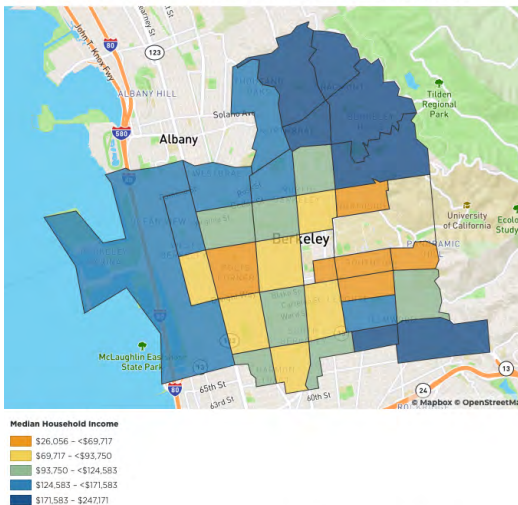
² University of California, Berkeley, Office of Planning and Analysis Quick Facts 2024; US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

Berkeley's population is projected to continue to grow over the next decade



Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

Northeast Berkeley Residents Have Higher Median Household Income



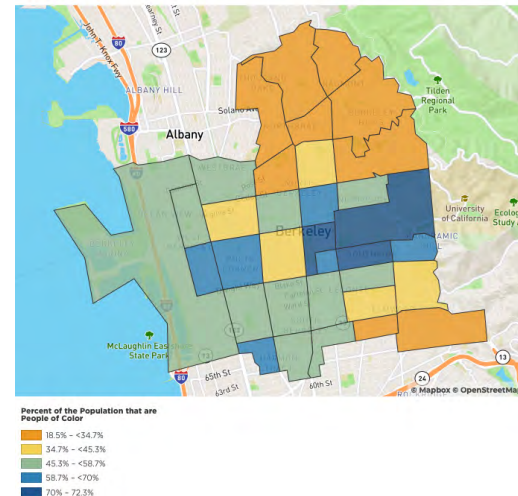
Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

Languages Spoken in Berkeley



Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

Higher Concentrations of People of Color in West, Central, and South Berkeley

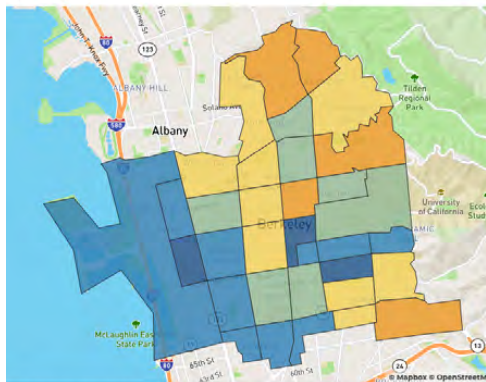


Source: US Census Bureau, American Community Survey Data, 5-year estimates 2018-2022

Behaviors

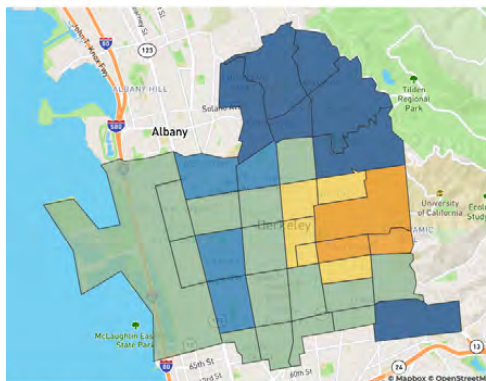
Differences in socioeconomic status and other social determinants of health affect the health behaviors of people. People with less resources have been found to be more likely to smoke tobacco, be less physically active, and are less likely to attend routine, preventative medical check-ups than people with more resources. In Berkeley, disparities in socioeconomic status are across different races and ethnicities, which correlate to the disparities seen geographically.

Higher Smoking Rates Amongst Adults in West, South, and Central Berkeley



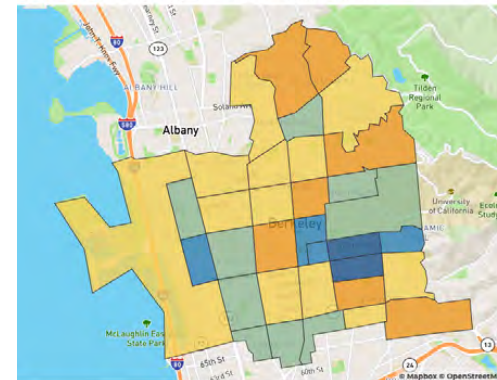
Source: Centers for Disease Control, Behavioral Risk Factors Surveillance System PLACES 2022

Lower Doctor Visit Rates amongst Adults in West, Central, and South Berkeley



Source: Centers for Disease Control, Behavioral Risk Factors Surveillance System PLACES 2022

Lower Exercise Rates in West, South, and Central Berkeley



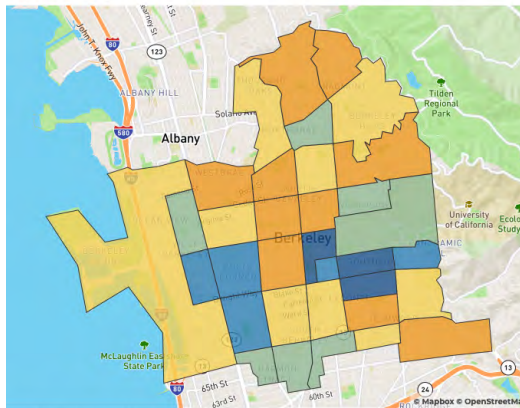
Source: Centers for Disease Control, Behavioral Risk Factors Surveillance System PLACES 2022

Note: Physical inactivity represents the proportion of adults who report no physical activity outside of work in the past month.

Health Outcomes

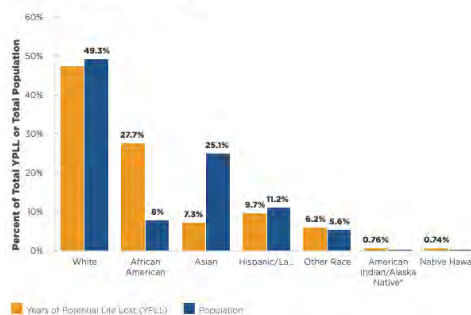
Disparities in resources and health behaviors result in impacts on health outcomes. More adults in West and South Berkeley report fair or poor general health than in other parts of the city. Rates of asthma are higher in West, Central and South Berkeley. Death rates from all types of cancer are different among the different racial and ethnic groups in Berkeley, with African Americans experiencing the highest mortality rates from cancer. Overall, African Americans suffer a disproportionate number of years of potential life lost, which estimates the years of life lost to premature death. Of the total number of years of potential life lost in Berkeley, African Americans account for 27.7% while only comprising 8% of the entire population.

Higher Percent of Adults in Fair or Poor General Health in West and South Berkeley



Source: Centers for Disease Control, Behavioral Risk Factors Surveillance System PLACES 2022

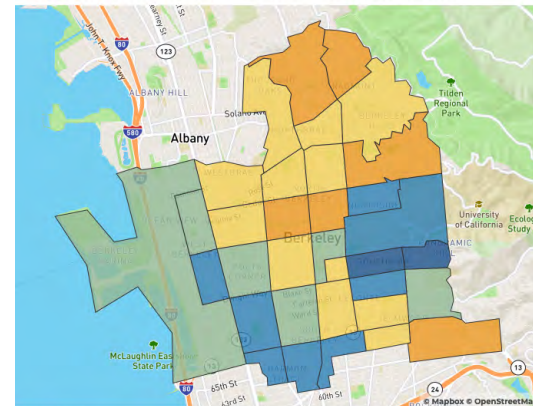
African Americans in Berkeley Experience a Disproportionate Number of Years of Potential Life Lost



Source: City of Berkeley Public Health Officer Unit, Epidemiology & Vital Statistics, 2020-2022; US Census Bureau, 2020-2022; California Department of Public Health, California Community Burden of Disease and Cost Engine, 2020-2022

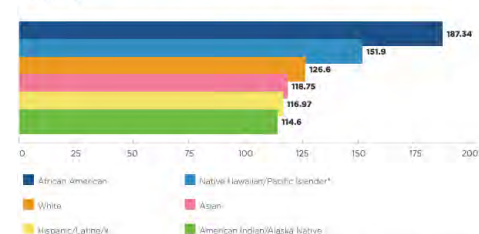
* Due to small number of deaths, estimates of years of potential life lost for American Indian/Alaska Native and Native Hawaiian/Pacific Islander are based on data for the entire state of California.

Higher Rates of Adult Asthma in West, South and Central Berkeley



Source: Centers for Disease Control, Behavioral Risk Factors Surveillance System PLACES 2022

Higher Rates of Cancer Deaths Among African American Residents in Berkeley



Source: City of Berkeley Public Health Officer Unit, Epidemiology & Vital Statistics, 2020-2022; US Census Bureau, 2020-2022; California Department of Public Health, California Community Burden of Disease and Cost Engine, 2020-2022

* Due to small number of deaths due to cancer, estimates for Native Hawaiian/Pacific Islander are based on data for the entire state of California.

APPENDIX B: METHODOLOGY

Formation of the Community Steering Committee

To ensure that the Berkeley Wellness Blueprint is a community-driven process, the JSI team assembled a community steering committee (CSC). CSC members are expected to:

- Attend regular meetings for the duration of the project
- Provide feedback on the design of the CHA and CHIP process
- Review materials that will be distributed to the community
- Support in prioritizing action items for the CHIP
- Help to identify and connect with community members and organizations to participate in interviews and focus groups
- Help develop data collection tools such as the questions that are asked during an interview or focus group
- Lead or co-lead community engagement activities, such as focus groups or community listening sessions

Recruitment

An open application was used to recruit CSC members, with flyers distributed both electronically and in public spaces throughout Berkeley (e.g., libraries, community organizations, parks, grocery stores). Over 60 applications were submitted. The eight members were selected based on several criteria: residency or employment in Berkeley; a demonstrated interest in Berkeley's health and wellness; experience with accessing, providing, or advocating for improved services or policies; diverse identities and backgrounds; and the capacity and availability to participate throughout the project. Additionally, two youth representatives were added to the CSC with assistance from the Youth Employment Program.

Acknowledging that each member would be making a significant time commitment, a stipend was given to either the individual or to the community-based organization they represent. Due to resource limitations, the CSC was only eligible to individuals who are comfortable communicating in English.

Qualitative Data Collection Plan

Through a codesign process with the CSC, four guiding questions emerged:

1. In what spaces do you feel cared for, seen, and loved?
2. How does lived experience and identity affect the way individuals interact and feel connected with(in) the Berkeley community?
3. What are the assets and challenges in the Berkeley community that affect health and wellness? And how can assets be used differently to address challenges?
4. What initiatives (existing or not) would help in achieving a vision of wellness for all Berkeley residents?

These guiding questions shaped engagement methods used for CHA, as well as questions to be asked during interviews and focus groups, and the analysis plan for the data collected.

Identifying Priority Populations

While it would have been ideal to engage with every group represented in Berkeley, this was not feasible. As a result, it became necessary to prioritize populations for the Community Health Assessment (CHA) data collection. CSC members, drawing on information from the landscape scan as well as their knowledge and experiences in Berkeley, were asked to:

- Define priority groups for CHA data collection
- Provide insights into the best ways to engage with each priority population
- Identify key locations and spaces for connecting with these groups
- Determine how to engage in a respectful, culturally relevant manner that fostered trust and avoided an extractive approach

Through this process, several priority populations were identified as disproportionately affected by health inequities in Berkeley. These included asylum seekers, immigrants, refugees, the Black community in South and West Berkeley, the Latinx/Latine community in South and West Berkeley,

and the LGBTQIA+ community. These perspectives were crucial to center in the CHA data collection, as they were likely to be most impacted by the recommendations emerging from the Community Health Improvement Plan (CHIP). In line with our commitment to health equity, the interviews and focus groups conducted during the CHA centered the voices of those facing the greatest challenges, our priority populations

Priority Populations

- Black/African Americans
- Latine/Latinx/ Hispanics
- LGBTQIA+
- Youth
- Residents in South and West Berkeley

We spoke to members of these communities along with staff from organizations who directly work with these groups.

Recruitment of CHA Interviewees and Focus Group Participants

After prioritization, the CSC and JSI team began recruiting individuals and organizations who either represented the priority populations or who worked closely with the priority groups. Existing relationships were crucial in recruitment. We conducted five individual interviews, 2 group interviews, and three focus groups.

Interviews were completed with community and nonprofit leaders as well as direct service providers. The three focus groups engaged priority populations and were completed in collaboration with nonprofit organizations based in Berkeley who have established relationships with and trust among community members. The focus groups took place with 1) the Pacific Center for Human Growth, the oldest LGBTQIA+ center in the Bay Area whose mission is to enhance the mental health and overall well-being of the LGBTQIA+ and QTBIPOC communities by providing culturally responsive therapy, peer to peer support groups, community outreach services, and facilitated workshops; 2) the Multicultural Institute, a nonprofit organization focused on accompanying immigrants in their transition to workforce participation and prosperity, and 3) the South

Berkeley Senior Center which offers a variety of enrichment activities and support services designed to empower seniors to learn, grow, and discover new ways to be actively engaged in living. This center also supports seniors living in prioritized geographic locations and the attendees are largely African American.

All focus group participants were given a \$50 gift card for their participation in the discussion and for filling out a demographic questionnaire. Organizations were provided with a \$200 gift card for their support in organizing and recruiting participants for the focus groups.

It is important to emphasize that, while the number of participants may seem small compared to the total population of Berkeley, the purpose of the interviews and focus groups, and qualitative data collection more generally, is to gain deeper insights into perspectives and experiences. Rather than seeking a large volume of responses, this approach aimed to explore the complexity and nuance of lived experiences of community members, particularly those from priority populations and individuals who work closely with them.

We also acknowledge that people hold multiple intersecting identities, which cannot be fully captured by a single checkbox. We encouraged participants to share any aspects of their lived experience they felt comfortable discussing, knowing that identity is multifaceted. Additionally, we recognize that one person's experience reflects their unique perspective and does not necessarily represent the views of everyone who shares a similar identity. Our goal was not to generalize but to gain a deeper, more nuanced understanding of the challenges and strengths within these communities.

Qualitative Data Analysis

Following interviews and focus groups, a team of three analyzed the notes and transcripts to identify a set of themes and sub themes that emerged (see table below). For example, if a focus group participant talked about how they feel appreciated and heard when they spend time in the senior center that quote was highlighted and coded as a community strength, sub-theme community organization.

All findings and coded passages were de-identified and quotes were presented in a way that did not directly attribute it to any participants. These major themes and de-identified quotes were then brought to two sense-making sessions, one with JSI

team members and the second with CSC members. The goal of the sense making sessions was to understand what story the data was telling and what major themes emerged. These sessions also informed and shaped aspects of the community survey.

Community Survey

The stories and insights that emerged during interviews and focus groups and internal sense making sessions were utilized to inform a community-wide survey aimed at assessing people's views on health and wellbeing in Berkeley. The goal of the survey was to receive input from the wider Berkeley community on their health status and recommendations on the priorities for the Community Health Improvement Plan (CHIP).

The CSC guided the development of the survey to ensure that the survey was accessible to the wider Berkeley community.

The survey had three main sections: Sentiment Statements, Focus Area Prioritization and Demographics (Appendix J). We collected extensive demographic data in order to disaggregate and analyze the responses from priority populations.

For the second section of the survey, respondents were asked to prioritize three out of ten areas as “the most important for the Berkeley Wellness Blueprint to focus on in order to improve community health and wellbeing in Berkeley.” These ten focus areas emerged from the Landscape Scan, interviews, focus groups and CSC consultation.

Community surveys provide valuable insights but have inherent limitations that can affect the representativeness and accuracy of results. One challenge is participation bias, as individuals who choose to respond may differ significantly from those who do not. Respondents are often people with more time, higher education levels, or stronger opinions, which can lead to an overrepresentation of certain perspectives.

Additionally, access and outreach barriers may prevent some groups - such as individuals with limited internet access, non-native speakers, or those with lower literacy - from participating. Even among those reached, survey fatigue can reduce response quality, with some participants choosing not to complete the survey and dropping off part way through.

For this survey, we had low engagement from some of the priority populations we had identified, meaning that key perspectives may be missing from the data. In particular, we struggled to reach non-English speakers and individuals identifying as Hispanic Latine/ Latinx. These limitations underscore the importance of using complementary methods, such as focus groups and interviews, to ensure representative and actionable insights.

APPENDIX C: COMMUNITY STEERING MEMBERS AND BIOS

Rosio Almaguer Andrade (she/they) Rosio works at Berkeley's Ecology Center focusing on food systems and is currently getting their master's in urban planning. They identify as a non-binary, Latinx first-generation college graduate who works with farmers market professionals as well as local government and community members to expand food access. Rosio views public health through the intersectional lens of food justice and urban planning and hopes the Community Steering Committee experience will give them the opportunity to continue their current avenue of work.

Penelope Collins (she/her) Penelope is a retired veterinarian who is currently on the Commission on Aging for the City of Berkeley and whose family has lived in Berkeley for generations. She currently lives in the South Berkeley house her grandparents built in 1929 and brings a deep understanding of Berkeley's history with hopes it can help inform the development of realistic wellness goals for Berkeley residents. Penelope doesn't want Berkeley to lose the magic she has experienced as a lifelong resident.

Michai Freeman (she/her) Michai is the Systems Change Advocate at the Center for Independent Living where she works to reduce barriers to accessibility and inclusion in community and public programs. She identifies as black woman with a physical disability, with experience in disability and health education, as well as wellness delivery services. Michai feels it is essential for people with disabilities to be involved in the Berkeley Wellness Blueprint, especially when it comes to community engagement.

JW Frye (he/him) J.W. is the Executive Director at Rebuilding Together East Bay Network where his work focuses on addressing health equity in housing and senior services through workforce development, opportunities for older adults, as well as intergenerational engagement and skill sharing. He believes there are ways to continue improving public health through uplifting the diverse lived experiences of Berkeley's residents. J.W. sees his background in public service as valuable to the Community Steering Committee to ensure any recommendations are informed by community members.

Kaitlyn (Kati) Khov (she/they) Kati is a transfer student at UC Berkeley majoring in urban studies who has experience in advocating for policy change and proposal writing. As a cancer survivor and member of the disabled and LGBTQIA+ communities, her goal for the Community Steering Committee is to work collaboratively to inform funding initiatives and development in disenfranchised communities. Kati's highest priority is to serve local communities in highly exposed areas facing displacement.

Isabella Ledezema (she/her) Isabella is a junior at Berkeley High and is also involved with Berkeley's Youth Equity Partnership with experience presenting deliverables to the city and school district. She is excited to be part of action oriented work to impact community health.

Matt Matusiewicz (he/him) Matt is a research analyst for the Division of Health Equity and Society in the Department of Medicine at the University of California, San Francisco. Drawing on his family's experiences and strength, Matt is dedicated to advancing the health and well-being of low-income and immigrant communities. Since 2019, he has been heavily involved with East Bay Sanctuary Covenant/Santuario in Berkeley, working to enhance the health and welfare of asylum seekers through comprehensive social, legal, and health services. As a graduate from UC Berkeley with experience in health and social service provision focused on housing, homelessness, and immigration, Matt is committed to supporting the Steering Committee in its mission to shape impactful policies that improve the well-being of Berkeley's residents.

Israel Nikodimos (she/her) Israel is a student at Berkeley High who also has been involved in Berkeley's Youth Equity Partnership is a volunteer at UCSF children's hospital shadowing doctors and seeing what it means to be heavily involved in medicine. She has participated in a numerous amount of services that help benefit my community such as black student union president and student council as well as read and reviewed grants to help fund our local programs that help benefit young children.

Claritza Rios (she/her) Claritza is a physician from South Berkeley who has experience providing care in emergency, internal, and palliative medicine. She identifies as an immigrant Latina as well as a member of the LGBTQIA+ community who wants to be able to "slam doors open for people," by being an agent of change towards health equity and becoming a voice for the oppressed. Claritza appreciates the importance of addressing health equity by tackling social determinants of health and advocating for better services and policies for her community.

Michael Rodriguez (he/him) Michael is a physician and the Executive Director of the California Alliance for Academics and Communities for Public Health Equity and currently resides in Berkeley's Oceanview neighborhood. As a bi-lingual, first-generation Latino American, he has experience providing health care for low income communities and people with mental illness. Michael has a passion for promoting health equity in his city and around the world.



APPENDIX D: PARTICIPATING ORGANIZATIONS

Pacific Center for Human Growth

Provides resources and services supporting and enhancing the mental health and well-being of LGBTQIA+ and QTBIPOC people.

Multicultural Institute

Provides resources and services for immigrant communities, particularly Hispanic/Latinx/Latine immigrants.

Healthy Black Families

Provides resources and services to support and uplift Black individuals and families in Berkeley

La Peña Cultural Center

Fosters and hosts cultural events, gatherings, and performances rooted in the Latin American and Caribbean diaspora.

East Bay Sanctuary Covenant

Provides programming to asylum seekers, refugee, and immigrant communities for legal, social, and advocacy services.

APPENDIX E: GUIDING PRINCIPLES FOR THE CHA

Principles

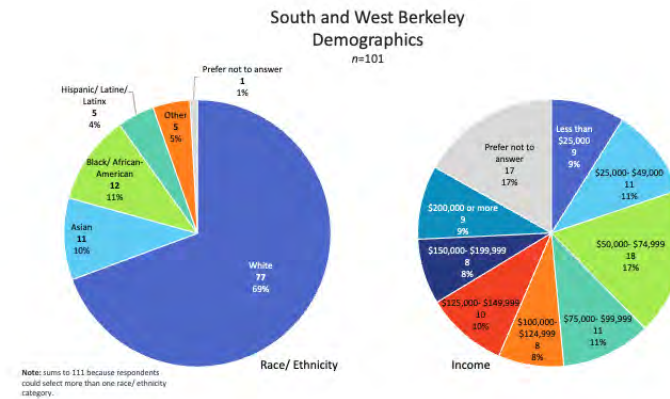
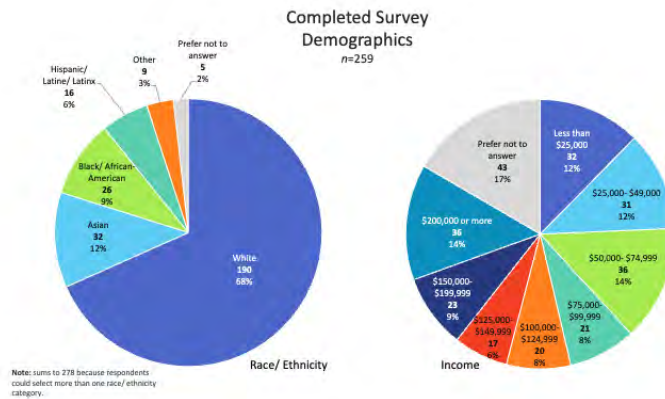
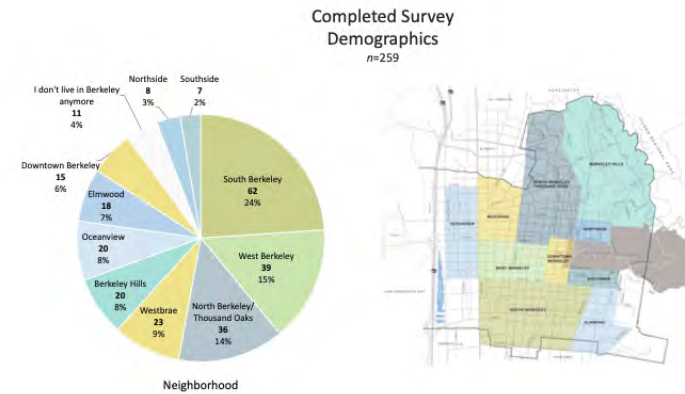
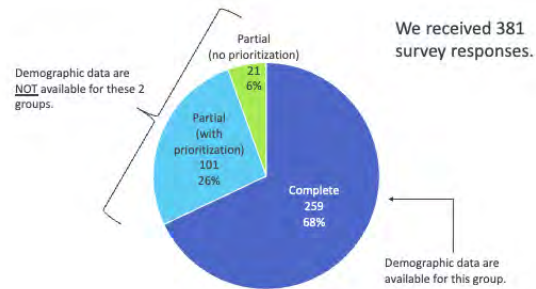
- Share and build from existing information: We aren't asking questions without providing relevant data (conclusions from other reports and assessments, quantitative data); qualitative data collection should help interpret quantitative information.
- Lead toward solutions: Qualitative processes should both expand understanding of needs/issues and point toward potential solutions; community perspectives should be centered throughout the CHA/CHIP.
- Emphasize balance between upstream and downstream perspectives: Questions and dialogues should make connections between health and safety outcomes and community and structural factors.
- Emphasize balance between asset and deficit perspectives: Assessment processes tend to focus on what is wrong; it is important to also identify community strengths as those can be instrumental to solutions.
- Acknowledge but don't be limited by resource and accountability constraints: Set realistic expectations for participants; some ideas are more readily actionable than others, but we want a genuine perspective on the issues that are shaping health in Berkeley.
- Strive for broad understanding: Bias and professional language can create barriers and misunderstandings; focus on deeply listening and providing space for arriving at shared meaning.

APPENDIX F: QUALITATIVE DATA FINDINGS

The table is a summary of the themes and findings from CHA data collection. This included focus groups (n=4), and community interviews (n=6)

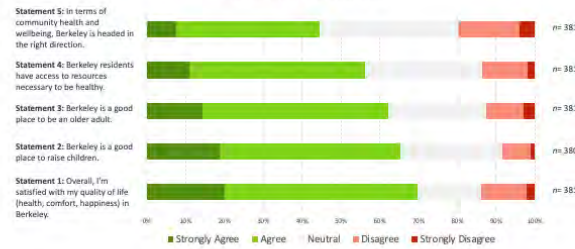
Theme	Analysis from CHA Community Data Collection
Strength	In Berkeley, the physical environment is: Accessible and walkable/wheelable routes Nature: like Parks, Mountains, Water the environment as places of connection and acceptance
Strength	In Berkeley, community members Characteristics: Resilient, Passionate, Caring, Treat people well, Diverse, Welcoming Passionate and caring city leadership Build spaces of connection and networks of support Community activism
Strength	In Berkeley, Community Organizations Are helpful and kind Places where community members feel seen, heard, and understood Have a good amount of resources and services
Opportunity for Improvement	Jobs and Money in Berkeley Need for more access to jobs that pay a living wage Job training and placement services and supports High cost of basic necessities and services (food, transportation, healthcare)
Opportunity for Improvement	Housing in Berkeley People are having to live in overcrowded housing situations Low access to affordable housing Concerns about the health and safety of unhoused people Gentrification and displacement a topic of concern
Opportunity for Improvement	Mental Health in Berkeley Need for more access and affordability of mental health services Need for more availability of a range of services and supports that match community need Need efforts to destigmatize mental health issues Need more coordination across mental health, physical health, and other social services Stress and social isolation are connected to mental health
Opportunity for Improvement	Sense of Belonging in Berkeley Need for more safety and welcoming public spaces Need to create spaces where people come together and build connections
Opportunity for Improvement	Unsupportive Systems and Structures in Berkeley challenge around government accountability need for improved community engagement Lacking representation, discrimination and racism is prevalent

APPENDIX G: SURVEY FINDINGS

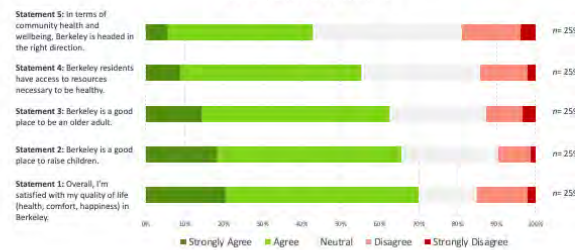




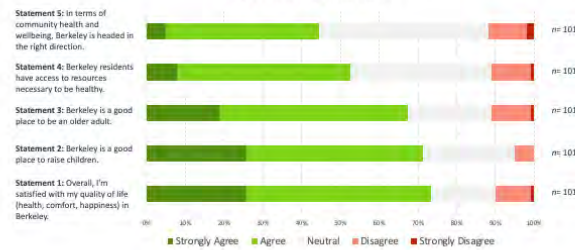
Responses to the Sentiment Statements



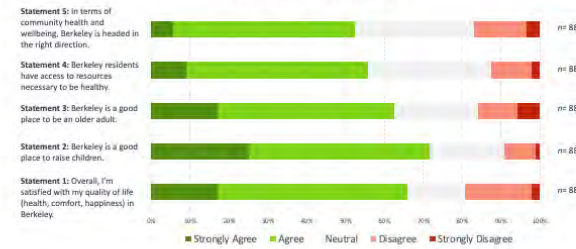
Demographic Data Responses to the Sentiment Statements



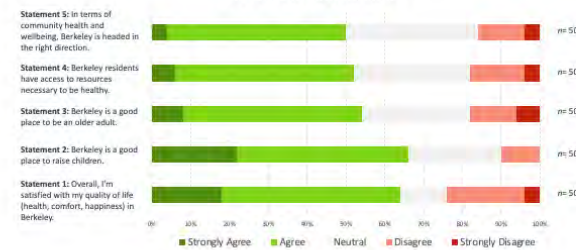
South and West Berkeley Responses to the Sentiment Statements



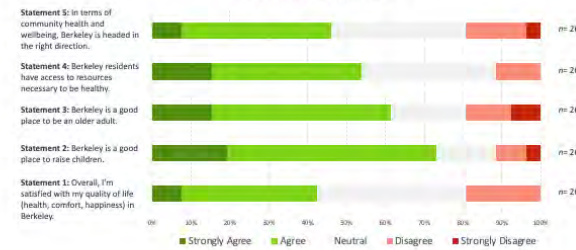
Priority Population Responses to the Sentiment Statements



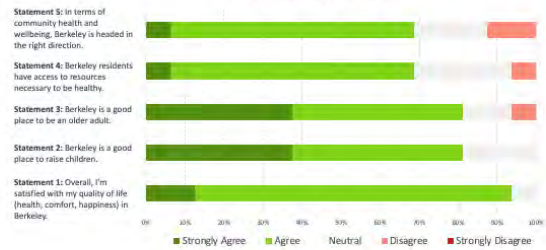
LGBTQIA+ Responses to the Sentiment Statements



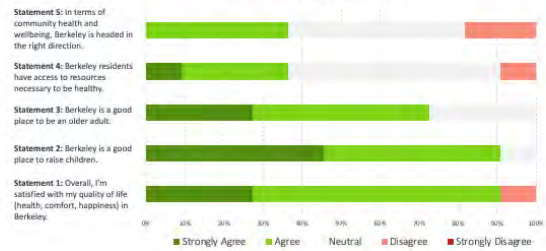
Black/ African-American Responses to the Sentiment Statements



Hispanic/ Latine/ Latinx Responses to the Sentiment Statements



Youth Responses to the Sentiment Statements



Responses to the "Top 3" Question *n=360*

Note: sums to 300% because participants could vote for 3 items

Which of these topics do you think are most important for the Berkeley Wellness Blueprint to focus on in order to improve community health and wellbeing in Berkeley?
Choose your top three.

