



Planning Commission

# AGENDA

## REGULAR MEETING OF THE PLANNING COMMISSION

This meeting is held in a wheelchair accessible location.

[Click here to view the entire Agenda Packet](#)

Wednesday, February 5, 2020  
7:00 PM

South Berkeley Senior Center  
2939 Ellis Street

See “*MEETING PROCEDURES*” below.

All written materials identified on this agenda are available on the Planning Commission webpage: <http://www.ci.berkeley.ca.us/ContentDisplay.aspx?id=13072>

### PRELIMINARY MATTERS

- 1. Roll Call:** Wiblin, Brad, appointed by Councilmember Kesarwani, District 1  
Martinot, Steve, appointed by Councilmember Davila, District 2  
Schildt, Christine, Chair, appointed by Councilmember Bartlett, District 3  
Lacey, Mary Kay, appointed by Councilmember Harrison, District 4  
Beach, Benjamin, appointed by Councilmember Hahn, District 5  
Kapla, Robb, Vice Chair appointed by Councilmember Wengraf, District 6  
Krpata, Shane appointed by Councilmember Robinson, District 7  
Vincent, Jeff, appointed by Councilmember Droste, District 8  
Wrenn, Rob, appointed by Mayor Arreguin
- 2. Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
- 3. Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “*Public Testimony Guidelines*” below):
- 4. Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting. **Next Commission meeting: March 4, 2020. There will be no Planning Commission meeting on February 19, 2020.**
- 5. Chairperson’s Report:** Report by Planning Commission Chair.
- 6. Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
- 7. Approval of Minutes:** Approval of Draft Minutes from the meeting on **January 15, 2020.**
- 8. Future Agenda Items and Other Planning-Related Events:** None.

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

9. **Action:** **2020 Planning Commission Elections**  
**Recommendation:** Elect the next Planning Commission Chair and Vice Chair for the 2020 calendar year.  
**Written Materials:** N/A  
**Presentation:** N/A
10. **Discussion:** **Southside EIR Discussion**  
**Recommendation:** Review report, consider Subcommittee direction and provide feedback on scope of proposed ordinance and map changes to include in Project Description.  
**Written Materials:** Attached  
**Presentation:** N/A
11. **Action:** **Public Hearing: Amendments to the Berkeley Zoning Map and General Plan for 2740 & 2744 Telegraph Avenue and 2348 Ward Street**  
**Recommendation:** Conduct a public hearing and make a recommendation to City Council on redesignation and rezone of portions of parcels located at 2740 & 2744 Telegraph Avenue and 2348 Ward Street.  
**Written Materials:** Attached  
**Presentation:** N/A
12. **Discussion:** **ADU Discussion**  
**Recommendation:** Discuss State ADU regulations and focus areas for development of a local ADU Ordinance  
**Written Materials:** Attached  
**Presentation:** N/A

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

**Information Items:** None.

**Communications:**

- December 3, 2019 – Sheffield Preschool, 2740-44 Telegraph & 2348 Ward Re-zone
- January 22 – Planning Staff, APA Annual Planning Commissioner Conference
- January 24 – City Manager’s Office, Strategic Plan Information
- January 27 – Southside Neighborhood Consortium, Southside EIR
- January 28 – Yovino-Young, 2740-44 Telegraph & 2348 Ward Re-zone
- January 29 – People’s Park Historic District Advocacy Group, Southside EIR
- January 30 – Bell, Accessory Dwelling Units

**Late Communications:** (Received after the packet deadline): None.

**Late Communications:** (Received and distributed at the meeting): None.

**ADJOURNMENT**

## **Meeting Procedures**

### ***Public Testimony Guidelines:***

Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. ***To speak during Public Comment or during a Public Hearing, please line up behind the microphone.*** Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

### ***Consent Calendar Guidelines:***

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

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

To distribute correspondence to Commissioners prior to the meeting date, submit comments by 12:00 p.m. (noon), eight (8) days before the meeting day (Tuesday) (email preferred):

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

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

***Written material*** may be viewed in advance of the meeting at the Department of Planning & Development, Permit Service Center, **1947 Center Street, 3<sup>rd</sup> Floor**, during regular business hours, or at the Reference Desk, of the Main Branch Library, 2090 Kittredge St., or the West Berkeley Branch Library, 1125 University Ave., during regular library hours.

***Note: If you object to a project or to any City action*** or procedure relating to the project application, any lawsuit which you may later file may be limited to those issues raised by you or someone else in the public hearing on the project, or in written communication delivered at or prior

to the public hearing. The time limit within which to commence any lawsuit or legal challenge related to these applications is governed by Section 1094.6, of the Code of Civil Procedure, unless a shorter limitations period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred.

***Meeting Access:* This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.**

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

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I hereby certify that the agenda for this regular/special meeting of the Berkeley City Commission on Commissions was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on **January 30, 2020**.

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Alene Pearson  
Planning Commission Secretary



Planning Commission

1                   **DRAFT MINUTES OF THE REGULAR PLANNING COMMISSION MEETING**  
2                                           **January 15, 2020**

3 The meeting was called to order at 7:04 p.m

4 **Location:** South Berkeley Senior Center, Berkeley, CA

5 **1. ROLL CALL:**

6     **Commissioners Present:** Benjamin Beach, Robb Kapla, Shane Krpata, Mary Kay Lacey,  
7     Steve Martinot, Christine Schildt, Jeff Vincent, Brad Wiblin, and Rob Wrenn.

8     **Commissioners Absent:** None.

9     **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Paola Boylan, and Justin Horner.

10 **2. ORDER OF AGENDA:** No changes.

11 **3. PUBLIC COMMENT PERIOD:** 1

12 **4. PLANNING STAFF REPORT:**

- 13
- 14     • City Council (January 21) – ADU Urgency Ordinance Extension
- 15     • City Council (February 28) - Comprehensive Cannabis Zoning Ordinance Amendments

16 **Information Items:**

- 17     • December 10, 2019 - City Council Item 30 – ADU Urgency Ordinance *Staff Report*

18

19 **Communications:** *None.*

20 **Late Communications** (Received after the Packet deadline):

- 21     • January 10, 2020- Mester, Tentative Tract Map Application #8533

22

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

- 24     • January 15, 2020 – Thompson- Lastad, BART CAG Recommendation
- 25     • January 15, 2020 - Planning Staff, Item 9 Presentation
- 26     • January 15, 2020 - Planning Staff, Item 10 Presentation
- 27     • January 15, 2020 - Lee, BART CAG Recommendation

28

29 **5. CHAIR REPORT:**

- 30     • Mom's For Housing

- MLK Event at the McGee Avenue Baptist Church- January 20, 2020 at 2pm
- Planning Commission (February 5) – PC Chair and Vice Chair Elections

## 6. COMMITTEE REPORT:

- Adeline Corridor Specific Plan Subcommittee- The next meeting is on January 29, where the project consultant will provide an update on development feasibility within the Adeline Corridor. On February 1 the subcommittee will reconvene for an all- day meeting to review and discuss recommendations.
- Southside EIR Subcommittee: At their first meeting on December 17, 2019 the subcommittee discussed development standards and development goals that could be included in the project description for the Southside EIR.
- Zoning Ordinance Revision Project (ZORP): The next meeting will be scheduled in late February.
- Joint Subcommittee for the Implementation of State Housing Laws: The next meeting is on February 26.

## 7. APPROVAL OF MINUTES:

Motion/Second/Carried (Krpata/Kapla) to approve the Planning Commission Meeting Minutes from December 4, 2019 with the discussed corrections to lines 50 and 51. Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wrenn, and Wiblin. Noes: None. Abstain: None. Absent: None. (9-0-0-0)

**FUTURE AGENDA ITEMS AND OTHER PLANNING-RELATED EVENTS:** At the next meeting, February 5, 2020 the following items may be presented.

- 2740 and 2744 Telegraph Avenue - General Plan Re-designation and Zoning Map Amendment
- Southside EIR Project Description
- ADU Ordinance Discussion

## AGENDA ITEMS

### 9. Action: **Public Hearing: Proposed Zoning Ordinance Amendments Related to SB 234 Family Daycare Homes**

Staff reviewed the provisions of the recently enacted SB 234 Family Daycare Homes and recommended the adoption of Zoning Ordinance amendments required for compliance with state law. Zoning Ordinance amendments: 1) reduce level of discretion 2) expand districts

70 where permitted use is allowed 3) update the Family Daycare Home definition and 4) update  
71 spelling for consistency with state law.

72 Motion/Second/Carried (Wiblin/Kapla) to close the public hearing on the proposed Zoning  
73 Ordinance amendments related to SB 234 Family Daycare Homes.  
74 Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes:  
75 None. Abstain: None. Absent: None. (9-0-0-0)  
76

77 Motion/Second/Carried (Wiblin/Beach) to adopt the proposed Zoning Ordinance  
78 amendments for Family Daycare Homes pursuant to SB 234, with added reference to  
79 California Health and Safety Code section in the new definitions.  
80 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot.  
81 None. Abstain: None. Absent: None. (8-1-0-0)  
82

83 **Public Comments: 0**

84 **10. Action: Public Hearing: Tentative Tract Map Application #8533- 1500**  
85 **San Pablo Avenue**

86 Staff presented the Tentative Tract Map application of an entitled development located at 1500  
87 San Pablo Avenue in the West Berkeley Plan Area. The Commission asked clarifying questions  
88 about the applicability of the Affordable Housing Mitigation Fee, the Inclusionary Housing  
89 Ordinance, and State Density Bonus Law in relation to the potential conversion of the rental to  
90 ownership units. To assist in the review and understanding of future Tentative Tract Map  
91 applications, the Commission expressed an interest learning more about Regulatory  
92 Agreements administered by the Health, Housing and Community Services Department.

93 **Public Comments: 3**

94 Motion/Second/Carried (Wiblin/Kapla) to close the public hearing on the Tentative Tract  
95 Application #8533 – 1500 San Pablo Avenue.  
96 Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes:  
97 None. Abstain: None. Absent: None. (9-0-0-0)  
98

99 Motion/Second/Carried (Krpata/Kapla) to approve the Tentative Tract Map #8533 subject to  
100 the Draft Findings and Conditions (Attachment 1/ Attachment 1- Exhibit A) and requested  
101 that the Regulatory Agreement of the project be shared with the Planning Commission.  
102 Ayes: Beach, Kapla, Krpata, Lacey, Schildt, Vincent, Wiblin, and Wrenn. Noes: Martinot.  
103 Abstain: None. Absent: None. (8-1-0-0)

104  
105 **11. Action: BART Community Advisory Group (CAG)**

106 Planning Commission nominated and selected a commissioner to serve on the BART CAG.

107 **Public Comments: 4**

108 Motion/Second/Carried (Kapla/ Lacey) to nominate Chris Schildt to serve on the BART CAG.  
109 Ayes: Beach, Kapla, Krpata, Lacey, Martinot, Schildt, Vincent, Wiblin, and Wrenn. Noes:  
110 None. Abstain: None. Absent: None. (9-0-0-0)

111

112 **12. Action: 2020 Nominations for February Election**

113 Planning Commission accepted nominations for February elections.

- 114 • Chair nominations: Robb Kapla  
115 • Vice-Chair nominations: Shane Krpata and Mary Kay Lacey

116 **Public Comments: 0**

117 **13. Discussion: Parking Maximums**

118 Staff shared findings on existing parking maximums and recommended that the Commission not  
119 institute maximums at this time. After a discussion about the different considerations related to  
120 the geographic location of maximums and the potential approaches based on the October 2019  
121 Residential Parking Utilization Study, the Commission directed staff to include parking  
122 maximums in the public hearing for the meeting on March 4, 2019. During this public hearing, a  
123 parking maximum of 0.5 spaces per unit within a quarter mile of transit, applicable to duplexes  
124 and multifamily units, shall be considered along with the TDM program and parking minimums.

125 **Public Comments: 0**

126 **The meeting was adjourned at 10:13pm**

127 **Commissioners in attendance: 9**

128 **Members in the public in attendance: 14**

129 **Public Speakers: 7 speakers**

130 **Length of the meeting: 3 hours and 9 minutes**





Planning and Development Department  
Land Use Planning Division

## MEMORANDUM

DATE: February 5, 2020  
TO: Members of the Planning Commission  
FROM: Elizabeth Greene, Senior Planner  
SUBJECT: Southside EIR Project Description

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### INTRODUCTION

A draft Project Description has been developed to identify the range of ordinance changes to study in the Southside Zoning Ordinance Environmental Impact Report (EIR); it is attached to this memorandum. The Planning Commission should review the scope of ordinance changes proposed in Section 1.8 of the Project Description and provide feedback on the adequacy of the scope.

### BACKGROUND

On January 19, 2019, in response to six Council referrals, the Planning Commission (PC) discussed Zoning Ordinance and Zoning Map changes that could promote the production of more housing in the Southside area. Because these changes are expected to exceed the growth studied in the original Southside Plan, the California Environmental Quality Act (CEQA) mandates that the potential environmental impacts of the regulations must be analyzed and mitigated as necessary. The Planning Department has hired Rincon Consultants to prepare the Environmental Impact Report (EIR).

The Project Description is the first step in the EIR process. An EIR's Project Description broadly establishes the parameters to be analyzed in the study. This means that it limits the range of the changes that can be eventually adopted. Options that are not studied in the EIR cannot be implemented. For this reason, Project Descriptions often describe more comprehensive changes than what are finally adopted, in order to give decision makers a range of options to consider.

### DISCUSSION

This memo explains the contents of the Project Description, the feedback from the Planning Commission Southside Subcommittee (Subcommittee), and next steps in the CEQA analysis process.

### Content of Project Description

The Project Description (Attachment 1) provides the following information:

- Background information regarding the Southside area, the regulations that currently apply to the area, and the Council referrals that prompted this study (Sections 1.4, 1.5 and 1.6)
- Project Objectives that describe the objectives and assumptions that informed the proposed modifications (Section 1.7). The rough buildout assumptions (Section 1.9) will be distributed at the PC meeting.
- Proposed Ordinance and Map Modifications (Section 1.8)

The complete Project Description is included to provide background information which will inform the entire Zoning Ordinance amendments and CEQA process. The PC should focus its attention on the proposed ordinance and map modifications (Section 1.8).

The zoning issues proposed for consideration would modify the Zoning Ordinance and Zoning Map and fall into the following categories:

- Building Height
- Building Footprint
- Parking
- Ground-floor Residential Uses
- Zoning District Locations

Feedback from December 17, 2019 Subcommittee meeting

On December 17, 2019, the Subcommittee held a meeting to review options to consider in the Project Description. The Subcommittee was generally supportive of the options provided by staff (Attachment 2). Their main concern was whether the current boundary of the Southside contains enough opportunity sites to justify the EIR and zoning changes. A list of comments from the meeting and maps of potentially constrained and unconstrained sites are attached (Attachments 3 and 4).

CEQA Next Steps

After the Commission provides feedback on the scope of the ordinance changes in the Project Description, work will begin on the Draft EIR. Below is the estimated timeline for the public portions of the CEQA review and consideration of zoning changes:

<b>Description</b>	<b>Timing</b>	<b>Public Review Process</b>
Development and Release of Public Draft of Initial Study and Notice of Preparation (IS-NOP)	October 2019 - early April 2020	Subcommittee and Planning Commission review
30-day NOP Comment Period	Ends early May 2020	Scoping Meeting at Planning Commission
Draft EIR released for 45-day review and comment period	September – October 2020	Planning Commission hearing

Discussion of Zoning Ordinance changes	October – December 2020	Subcommittee and Planning Commission review
Final EIR and Final Zoning Ordinance released	February – March 2021	Planning Commission recommendation; City Council action

**NEXT STEPS**

The Planning Commission should review and provide feedback to staff on the scope of the proposed Zoning Ordinance and Zoning Map changes (Section 1.8) included in the Project Description.

**ATTACHMENTS**

1. Draft Project Description
2. Proposed Zoning Amendments, December 17, 2019 Southside Subcommittee meeting, Attachment 4
3. List of Subcommittee questions and comments from December 17, 2019 meeting
4. Maps of Potential Constrained Sites and Potential Development Sites



# 1 Project Description

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## 1.1 Project Title

Southside Zoning Ordinance Updates Project

## 1.2 Lead Agency/Project Proponent

City of Berkeley  
Planning and Development Department  
1947 Center Street, 2nd Floor  
Berkeley, CA 94704

## 1.3 Contact Person and Phone Number

Elizabeth Greene, AICP  
Senior Planner  
Phone: (510) 981-7484  
Email: EGreene@cityofberkeley.info

## 1.4 Project Location and Setting

The project location is the “Southside” or “Southside Area” of the City of Berkeley, as defined in the Southside Plan (2011) and shown in Figure 1 (Regional Location) and Figure 2 (Southside Area). The Southside Area encompasses approximately 28 full city blocks and several more partial city blocks, directly south of the main campus of the University of California at Berkeley (“the University”). It is generally bounded by Bancroft Way and the University on the north; Dwight Way on the south (including parcels on both sides of Dwight Way); Prospect Street on the east (including parcels on both sides of Prospect Street); and Fulton Street on the west (including some parcels extending west from Fulton towards Shattuck Avenue and Downtown Berkeley). The Southside Area also includes properties extending south along Telegraph between Dwight Way and Parker Street.

### Existing Land Use and Ownership

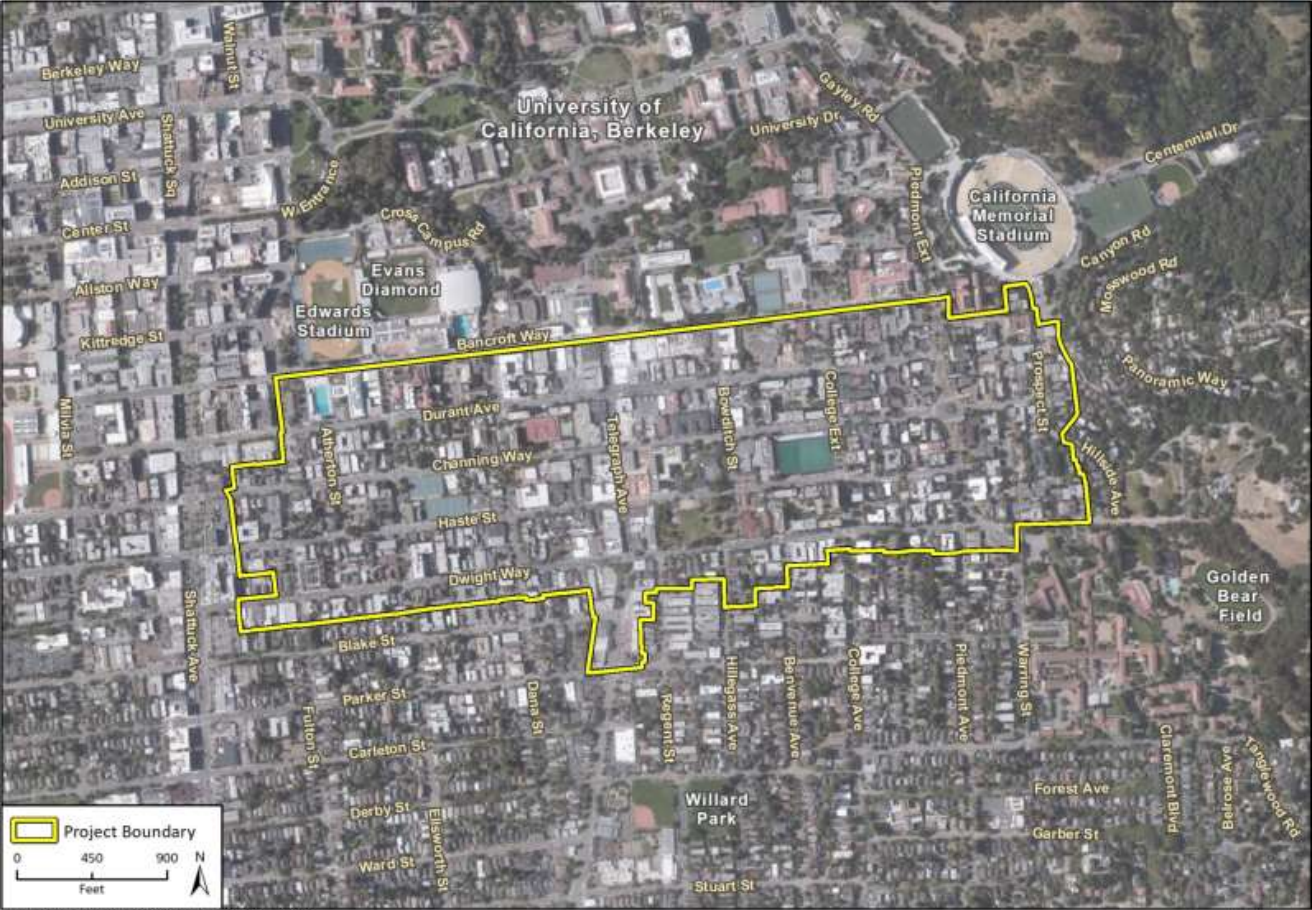
The Southside contains a diverse mix of land uses, including housing, offices, retail, religious and cultural institutions, schools, hotels, parking, recreational uses, and public streets. The most common existing use is residential, which currently occupies approximately 60% of the developable land in the Southside (excluding streets).

In addition to housing, the Southside includes the important retail and social corridor of Telegraph Avenue, a major student-oriented street that provides storefront shopping, restaurants, community activity, and street vendors.



Project Description

Figure 2 Southside Area Location



Project Description

An array of other shops and businesses used by students, visitors, and residents is also found elsewhere in the Southside. This includes longstanding establishments such as Caffe Strada and Free House at College and Bancroft; the retail and commercial block along Dwight Way between Shattuck and Fulton; and the many shops and restaurants along streets perpendicular to Telegraph – particularly along Bancroft Way and Durant Avenue.

Most land in the area is owned by private individuals or institutions. However, the Southside contains a significant number of University-owned parcels, mostly west of College Avenue, as shown in Figure 3. Some of these University-owned parcels contain University-operated housing, such as the Unit 1 and 2 Residence Halls along College Avenue; the Unit 3 Residence Halls on Dana Street between Channing Way and Durant Avenue; Beverly Cleary Hall between Haste Street and Channing Way; and Martinez Commons near Telegraph Avenue between Channing Way and Haste Street.

The Southside also contains University-owned housing operated by the Berkeley Student Cooperative (the largest student non-profit housing cooperative in the United States, in operation since 1933), including Fenwick Weavers Village and the Rochdale Apartments. Other University-owned land has a non-residential use associated with the University, such as the Miller Institute and Anna Head Alumnae Hall, the Tang Health Center, the Legends Aquatic Center, the UC Berkeley Safe Transportation Research and Education Center, and the University's Residential and Housing Services Center. Other existing University-owned land – such as the Channing Tennis Courts and People's Park – is the location of active development projects in the planning phases, mostly focused on University housing and open space.

In addition to University-owned housing, there is a significant amount of existing housing that is privately owned, or owned by institutions besides the University. Some existing privately-owned housing – such as Wesley House and David Blackwell Hall along Bancroft; the Metropolitan at Durant and Ellsworth; or the Garden Village Apartments along Dwight – is targeted towards a student population. Other existing housing, particularly further south from the University such as along Dwight Way or along Fulton Street, is not specifically student-focused and likely has a mix of student and non-student residents. Several large houses owned by fraternities and sororities are located along Piedmont Avenue and further uphill to the east. There are also a significant number of non-University institutional uses throughout the Southside, including the Wright Institute, the American Baptist Seminary of the West, the Berkeley Free Clinic, and the Berkeley Architectural Heritage Association.

### Historic Resources

The Southside is the location of many designated historic landmarks or structures of merit. This includes the Julia Morgan-designed Berkeley City Club; many of Berkeley's oldest and largest places of worship such as the Bernard Maybeck-designed First Church-Christian Scientist, Saint Mark's Episcopal Church, Trinity Church, First Congregational Church of Berkeley, and Newman Hall-Holy Spirit Parish; and a variety of architecturally significant historic housing such as the Thorsen House, the Picardo Arms Apartments, and many other early 20th century apartments, retail, and mixed-use buildings.



City of Berkeley  
Southside Zoning Ordinance Updates Project

Figure 3 University-owned Parcels



## Existing Development Pattern

The existing building heights and intensities east of College Avenue are generally lower than those west of College Avenue. This is consistent with the historic zoning pattern pre-dating the current Southside Plan, which limited heights to four stories east of College Avenue (formerly the “R-4H” district before 2009, currently the “R-3” district) while allowing up to six stories west of College Avenue (formerly the “R-4” district before 2009, currently a mix of districts including R-SMU, R-S, and C-T). At the same time, the development pattern east of College Avenue remains relatively compact, with a large percentage of parcels containing three- or four-story apartment buildings with high lot coverage and urban frontages close to the street. Many of these middle-density housing types were built in the early- to mid-20th century and have defined the urban form and character of this area for decades. Many of the parcels east of College Avenue are small (less than 0.5-acre, with many less than 0.25-acre), and very few have obvious development opportunities such as vacant land or buildings, surface parking lots, or under-utilized single-story buildings, or structures.

The existing pattern of height, intensity, and parcel pattern west of College Avenue is more varied, with existing intensity focused along Telegraph Avenue and Bancroft Way, as well as at major University-owned sites such as the eight- and nine-story Unit 1 and Unit 2 Residence Halls. Heights along Telegraph Avenue range from three to five stories, mostly consisting of mixed-use buildings with housing over retail, along with some single-story retail buildings. Multi-unit housing and many institutional buildings in a range of heights, intensities, and building types are common in other locations west of College Avenue. This includes smaller three and four story urban apartment buildings – mostly built in the early to mid-20th century – along with many five and six story apartment and mixed use buildings constructed in the early to mid-20th century as well as more recently.

Most of the tallest and most prominent existing buildings in the Southside are west of College Avenue and include the historic six-story Picardo Arms apartment building at 2491 Ellsworth; the historic six-story Telegraph Commons Apartments; the seven-story historic Graduate Hotel and restaurant (formerly The Durant Hotel); and the landmarked six-story Berkeley City Club, along with more recently constructed buildings such as the eight-story David Blackwell Hall and the five-story Metropolitan. Other prominent buildings including the historic Trinity Church and First Congregational Church have features such as steeples or towers with heights rivaling nearby six and story story buildings. Many of the large multi-story buildings on the UC Berkeley campus are also visible from much of the Southside. The area west of College Avenue includes the largest University-owned buildings and residence halls, including several eight- and nine-story buildings, as described above.

Besides the main retail areas along and perpendicular to Telegraph Avenue (described above), most of the ground-floor frontages in the Southside are residential, along with some institutional and office frontages. There are a small number of single-family residential buildings in the Southside. Many buildings that were originally single-family residences have been converted into multi-unit housing or non-residential uses over time. In contrast to the area east of College Avenue, the area west of College Avenue contains a greater mix of small parcels (less than 0.5 acre) and large parcels (greater than 0.5 acre), and more sites where new housing may be likely to be built, such as those with existing surface parking lots or single-story structures. The area west of College Avenue has also seen the majority of recent new housing development and proposals in recent years, particularly along Telegraph Avenue and Bancroft Way.

City of Berkeley  
**Southside Zoning Ordinance Updates Project**

## Existing Street and Circulation Pattern

Telegraph Avenue functions as a gathering place and spine of pedestrian activity for the Southside and adjacent neighborhoods, connecting the main University campus with other Berkeley neighborhoods – and eventually Downtown Oakland – further south. College Avenue is also an important north-south corridor connecting the University with neighborhoods further south such as Elmwood in Berkeley and Rockridge in Oakland. Larger east-west corridors such as Bancroft Avenue and Dwight Way provide connections between the Southside and other neighborhoods in central and west Berkeley. The remainder of the Southside is connected by a regular grid of streets and small blocks, most of which measure around 250 feet (north-south) by 600 feet (east-west), and all of which have sidewalks on both sides of the street. This connected grid – along with the Southside’s location near the University, large student population, compact development pattern, and mix of residential and non-residential uses – contribute to some of the highest rates of walking and cycling in Berkeley, and some of the lowest vehicle miles traveled (VMT) per resident.

## 1.5 Regulatory Setting

### City of Berkeley General Plan

Berkeley’s General Plan, adopted in 2001, is a comprehensive, long-range statement of community priorities and values developed to guide public decision-making in future years. The Plan’s goals are implemented through decisions and actions consistent with the objectives, policies, and actions of each of the nine Elements: Land Use, Transportation, Housing, Disaster Preparedness & Safety, Open Space & Recreation, Environmental Management, Economic Development and Employment, Urban Design & Preservation and Citizen Participation. These elements contain goals, policies, and actions that apply to all land within City limits.

The Land Use Element categorizes areas in Berkeley into different land use classifications and includes a Land Use Diagram that maps these classifications. As noted specifically in the Land Use Element, the Diagram “depicts the general distribution, location, and density of land uses in Berkeley based upon the policies of the General Plan and existing land uses” but is not intended to portray the specific use or other development regulations of each parcel of land, which is determined by the City’s Zoning Ordinance.

General Plan land use designations for parcels in the Southside include Avenue Commercial, Residential Mixed-Use, Medium Density Residential, and High Density Residential.

### City of Berkeley Southside Plan

The existing Southside Plan was adopted in 2011. The Southside Plan and its strategies and policy guidance are intended to remain as the primary planning policy document for the Southside, both during and after the proposed Southside Zoning Ordinance Updates in the Southside Area. The Southside Plan’s boundaries are shown in Figure 2 and are identical to the “Southside Area” project boundary for this study. The Southside Plan’s major goals (pages 7-8) are intended to be supported by the proposed Southside Zoning Ordinance Updates, and are as follows:

- **Housing:** Create additional housing at appropriate locations to help meet the housing demand for students and people employed nearby, thus taking advantage of proximity to the University

Project Description

and Downtown to reduce automobile dependence and to increase travel to work or school by non-automobile transportation. Encourage the provision of affordable housing.

- **Land Use:** Provide for a high-density residential and commercial mixed-use edge to the University of California campus and the “spine” along Telegraph Avenue. The high-density edge and spine are the focus for infill development. Development becomes progressively less dense and more residential in use the greater the distance from Bancroft and Telegraph, providing a buffer and transition to the lower density residential areas to the east and south of the Southside Area.
- **Transportation:** Increase the quality, amenity, and use of all non-automotive modes (public transit, bicycles, and pedestrian), and reduce the number of trips made in single-occupant automobiles.
- **Economic Development:** Enhance the commercial district so that it better meets the needs of the wide variety of users who frequent the neighborhood. Improve access, marketing, and safety.
- **Community Character:** Recognize, preserve, and enhance the unique physical character of the Southside.
- **Public Safety:** Improve public safety, address social needs, and act to minimize loss of life and property in the event of a natural disaster.

The Southside Plan also includes a series of specific land use and housing strategies (pages 30-31), which remain applicable and supported by the proposed Southside Zoning Ordinance Updates. These strategies are as follows:

- Encourage creation of additional affordable housing in the Southside for students and for year-round residents, including UC employees and other area employees, by the University, the private sector, student cooperatives, non-profits or a combination of these groups working in partnership;
- Encourage the construction of infill buildings, particularly new housing and mixed-use developments, on currently underutilized sites such as surface parking lots and vacant lots;
- Protect and conserve the unique physical, historic, and social character of the Southside;
- Protect and enhance historic and architecturally significant buildings, and ensure that new development complements the existing architectural character of the area through design review;
- Encourage reinvestment in deteriorating housing stock to improve the overall physical quality of the neighborhood;
- Enhance the pedestrian orientation of the Southside;
- Improve the Bancroft Way corridor as a physical connection and transition between the University and the Southside;
- Encourage a land use pattern in the Southside which provides for a high-density residential and commercial mixed-use edge to the University of California campus and a “spine” along Telegraph Avenue. The high density edge and spine are adjoined by areas which progressively become less dense and more residential in use and provide a buffer and transition to the lower density residential areas to the east and south of the Southside Area;
- Refine and reinforce the existing land use patterns in the Southside by acknowledging five distinct “subareas” of land uses in the area: two residential subareas, a mixed use subarea, and two commercial subareas. Create specific policies for each subarea;
- Limit office and institutional development to areas closest to the UC campus and to the Bancroft-Durant transit corridor. Give preference to housing over new office and institutional development throughout the Southside; and

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- Encourage relocation of office and institutional uses from residential subareas to appropriate locations closer to campus and to transit corridors.

The strategies, goals, and policies of the Southside Plan are not intended to be significantly updated or changed as part of this process. Minor adjustments to plan content may be necessary for consistency with zoning amendments adopted as part of the Southside Zoning Ordinance Updates Project.

### City of Berkeley Zoning Ordinance

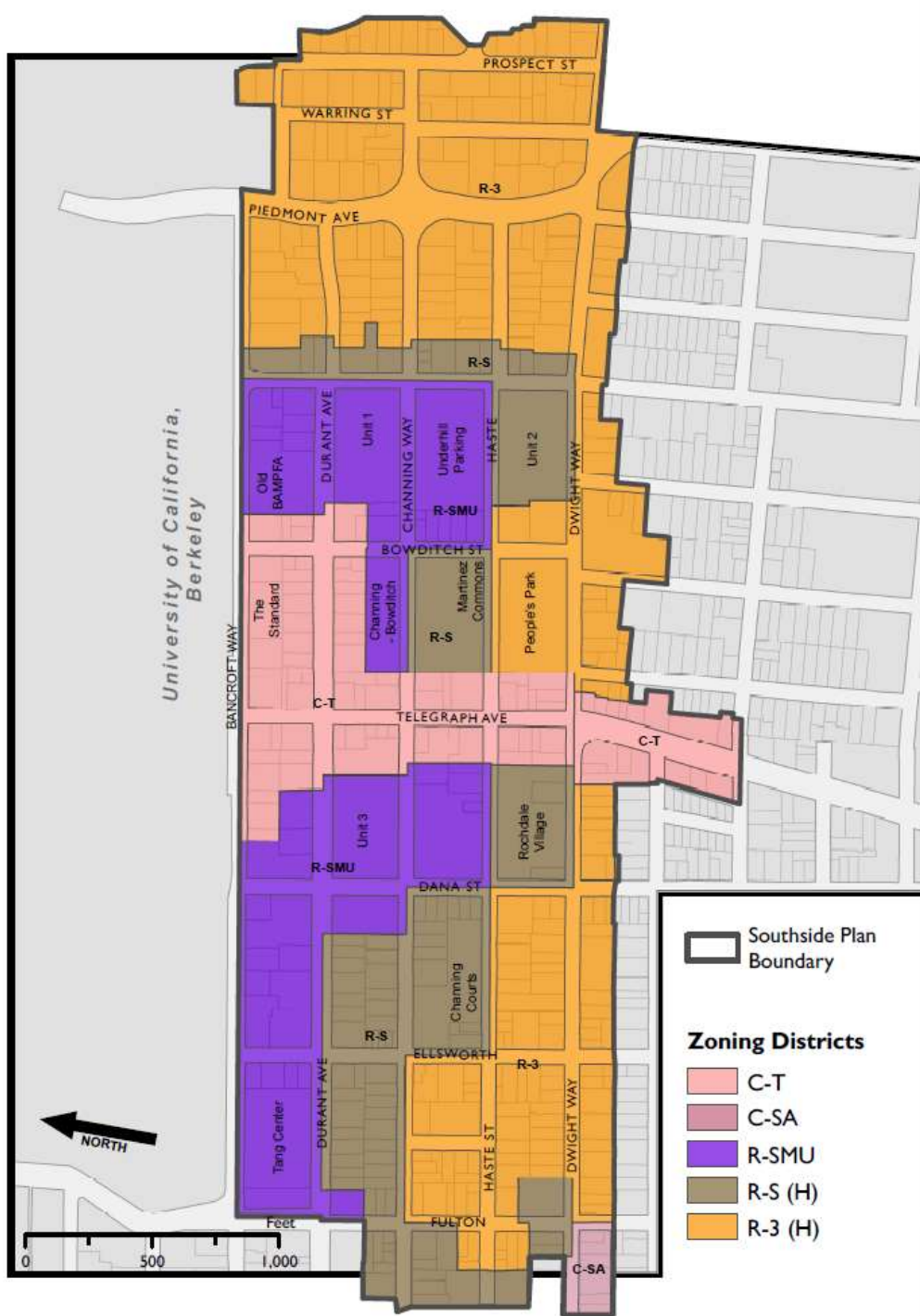
The City's Zoning Ordinance and associated Zoning map identifies specific zoning districts in Berkeley, and development standards that apply to each district. The zoning districts that currently exist in the Southside Area are as follows:

- C-T (Telegraph Avenue Commercial District)
- R-SMU (Residential Southside Mixed Use District)
- R-S (Residential Southside High Density District)
- R-3 (Multiple-Family Residential District)
- C-SA (South Area Commercial District)

These existing zoning districts are shown in Figure 4, and their requirements are summarized in Table 1. The Southside Plan also established a "Car-Free Housing Zone," which currently applies to the C-T district, the R-SMU district, and some portions of the R-S district. The C-T district, R-SMU district, and R-S district – along with the Car-Free Housing Zone – only occur in the Southside. The R-3 and C-SA districts occur in other parts of the City as well as the Southside.

Project Description

Figure 4 Existing Southside Zoning Districts



City of Berkeley  
 Southside Zoning Ordinance Updates Project

**Table 1 Summary of Existing Southside Zoning District Standards**

	C-T (north of Dwight)	C-T (south of Dwight)	R-SMU	C-SA	R-S	R-3
<b>General Plan Designation</b>	Avenue Commercial	Avenue Commercial	Residential Mixed Use	Avenue Commercial	High Density Residential	Medium Density Residential
<b>Max Height (stories)</b>	None (assume 6 based on height)	4	4 (5 with UP)	5 if residential, 3 if non-res	3 (4 with UP)	3
<b>Max Height (feet)</b>	65' (75' with UP)	50' (65' with UP)	60' (65' or 75' with UP)	60' if residential; 36' if non-res	35' (45' with UP)	35'
<b>Front Setback</b>	None	None	10' (0' with AUP)	15' (see R-4)	10' (0' with AUP)	15'
<b>Rear Setback</b>	None	None	10' – 19' (0' with AUP)	15'-21' (see R-4)	10' – 17' (can be reduced w/ AUP)	15' (can be reduced w/ AUP)
<b>Side Setback</b>	None	None	4' – 10' (0' with AUP)	4'-12' (see R-4)	4' – 8'	4' – 6'
<b>Side Setback (street)</b>	None	None	6' – 10' (0' with AUP)	6'-15' (see R-4)	6' – 10'	6' – 10'
<b>Max Lot Coverage</b>	100%	100%	40% - 60% (100% with AUP)	40-50% (see R-4)	55% - 70%	40% - 50%
<b>Residential Parking</b>	None required	None required	None required	1 parking space/unit	None required	1 parking space/unit
<b>Max Residential Density</b>	See R-3 standards. (GLA density can be increased with UP)	See R-3 standards (GLA density can be increased with UP)	175 sf/GLA resident (greater density with UP)	See R-4 Standards (GLA density can be increased with UP)	350 sf/GLA resident (no option to exceed)	350 sf/GLA resident (no option to exceed)
<b>Max FAR</b>	5.0 (6.0 with UP)	4.5	N/A	4.0	N/A	N/A
<b>Min Open Space</b>	40 sf/DU	40 sf/DU	40 sf/DU 20 sf/GLA resident	40sf/Du	50 sf/DU 20 sf/GLA resident	200 sf/DU 90 sf/GLA resident
<b>Ground-floor residential</b>	Not allowed	Not allowed	Allowed	Allowed	Allowed	Allowed

## 1.6 Project Background

Since 2016, the City Council has forwarded six referrals to the Planning Commission related to increasing housing production and availability in the Southside area. The six council referrals are show in Table 2.

Project Description

**Table 2 Southside Council Referrals**

Date of Referral	Council Referral Description
7/12/16	Allow increased development potential in the Telegraph Commercial (C-T) District between Dwight Avenue and Bancroft Avenue and develop community benefit requirements, with a focus on labor practices and affordable housing.
4/4/17	Create a Use Permit process to allow non-commercial use on the ground floor in appropriate locations, where commercial might otherwise be required. A pilot project is suggested for the C-T District.
5/30/17	Develop a pilot Density Bonus program for the C-T District to generate in-lieu fees that could be used to build housing for homeless and extremely low-income residents.
10/31/17	Facilitate student housing by increasing the height and Floor Area Ratio (FAR) in the portions of the R-SMU, R-S and R-3 District which are located within the Southside area west of College Avenue.
1/28/18	Convert commercial space in the C-T to residential use, expand the Car-Free Housing overlay in the Southside, allow two (2) high-rises for student housing, and consider micro-units and modular units.
5/1/18	Convert commercial space into residential use within all districts in the Southside located west of College Avenue.

Responding to these six council referrals – along with City policy goals for increasing the availability and production of housing at all income levels – is the primary impetus for this project to update the zoning requirements in the Southside Area.

## 1.7 Project Objectives

Specific topical objectives and scope assumptions for the proposed Zoning Ordinance Updates are as follows:

- **Focus on Zoning and Housing.** Update the Southside zoning standards, particularly as they relate to housing capacity and the six referrals from City Council (listed in Table 2).
- **Encourage Affordable Housing.** Support affordable housing production at a mix of income levels, including housing for students, existing and future residents, and those that may have been displaced or burdened by rising housing costs.
- **Continue to Protect Important Southside Resources.** Encourages the continued protection and support of important existing Southside resources, including historic buildings, cultural resources, local businesses and merchants, and existing housing – including market rate and rent-controlled housing, and including both renter-occupied and owner-occupied housing.
- **Understand and Coordinate with University Development Plans.** Understand and coordinating with University development plans, recognizing that the City does not have final zoning control over land owned by the University of California, which is controlled by the State of California.
- **Provide Programmatic CEQA Analysis for Future Housing.** Provide programmatic CEQA clearance for future housing development.
- **Address Fire Safety and Disaster Preparedness.** Address continued planning for fire safety and disaster preparedness in the Southside, including coordinating with the Fire Department on other citywide disaster preparedness efforts.
- **Encourage Alternatives to Driving.** Encourage walking, biking, transit, ride-sharing, and other alternatives to driving.
- **Align Development Standards with City Housing Goals.** Refine development standards to support City goals for housing availability and production at all income levels.



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There are a number of topics for which this process will defer to other laws or processes outside the scope of this effort, including the following specifically:

- Improvements to street and public rights-of-way will be addressed through the Southside Complete Streets effort and other Public Works efforts such as the 5-year Street Paving Plan.
- The City of Berkeley’s JSISHL (Joint Subcommittee for the Implementation of State Housing Law) is currently developing citywide guidance for regulating residential density and residential open space. The Southside zoning effort will defer to this ongoing citywide process and will not propose changes in these areas.
- State laws related to housing and development – such as state density bonus for affordable housing, accessory dwelling units, and objective design standards – will continue to apply in the Southside as in other parts of the City.
- City policies and requirements – including for inclusionary housing, required fees, and historic preservation – will continue to apply in the Southside as elsewhere in the City.

## 1.8 Proposed Ordinance Modifications

Table 3 identifies proposed modifications to the existing zoning ordinance that are intended to achieve the project objectives listed in Section 1.7 and the City Council referrals described in Section 1.6. The proposed zoning modifications represent a range of zoning standards, concepts, or intended results that will be studied in this Initial Study and Environmental Impact Report, and which form the basis for the buildout forecast and assumptions studied in the EIR (Section 1.9 below).

These proposed zoning modifications are intended to increase housing capacity and production in the Southside through changes in a targeted number of zoning parameters: building heights, building footprints (including setbacks and lot coverage), parking, ground-floor residential use, and adjustments to the existing zoning district boundaries (shown in Figure 5). Focusing on these specific components of zoning is anticipated and intended to expand housing capacity on a limited number of suitable future development sites, as described in Section 1.9. The majority of existing uses and parcels in the Southside are not anticipated to change or develop as a result of these proposed zoning changes.

Proposed changes are limited to development standards in existing zoning districts within the Southside Plan area.

### **Figure 5 Proposed Zoning District Boundary Changes**

***[Placeholder figure will be inserted once zoning district boundary changes determined]***

Project Description

**Table 3 Proposed Zoning Ordinance Modifications**

<b>Building Height</b>
<p>Zoning standards for building height are anticipated to be changed in the following ways:</p> <ul style="list-style-type: none"> <li>▪ For all Southside zoning Districts, remove the Use Permit option to exceed height limits. Height limits stated in the zoning ordinance will be the maximum allowed through local zoning, and are not intended to be exceeded through use permits.</li> <li>▪ Institute building height limits in the Southside Area as follows:                             <ul style="list-style-type: none"> <li>▫ Allow up to 65' (6 stories) in R-SMU, and up to 68' if including ground-floor retail (increase from 60', 4 stories)</li> <li>▫ Allow up to 68' (6 stories) in C-T north of Dwight (increase from 65', no stories given)</li> <li>▫ Allow up to 55' (5 stories) in R-S (increase from 35', 3 stories)</li> <li>▫ Allow up to 45' (4 stories) in R-3 within the Southside (increase from 35', 3 stories)</li> <li>▫ No changes for C-SA (24' – 36', 2-3 stories, depending on use) and C-T south of Dwight (50', 4 stories)</li> </ul> </li> <li>▪ Include zoning provisions to allow construction of 12-story buildings in the R-SMU and/or C-T (north of Dwight) districts. The Buildout Forecast for the environmental analysis will study construction of up to three 12-story buildings in the Southside, within the R-SMU or C-T districts, but the exact zoning tool or provision for enabling these buildings will be determined when zoning is finalized following environmental analysis.</li> </ul>
<b>Building Footprint (Setback and Lot Coverage)</b>
<p>Zoning standards for building setbacks and lot coverage are anticipated to be changed in the following ways:</p> <ul style="list-style-type: none"> <li>▪ For all Southside Districts, remove specified discretionary review option to modify setbacks and lot coverage.</li> <li>▪ Allow 0' front setback by right for R-SMU, R-S, and C-SA (currently already allowed with an AUP in R-SMU and R-S, and by right in C-T).</li> <li>▪ Allow 0' street side setbacks (for frontages along side streets) for R-SMU, and R-S.</li> <li>▪ Allow 0' side setback by right for non-residential portions of R-SMU buildings.</li> <li>▪ Reduce upper-story side setbacks for R-SMU, R-S, and R-3.</li> <li>▪ Reduce lower-story and upper story rear setbacks for R-SMU, R-S, and R-3.</li> <li>▪ Eliminate requirement for shade studies in C-T.</li> <li>▪ Change existing lot coverage requirements as follows:                             <ul style="list-style-type: none"> <li>▫ Permit 85% lot coverage in all R-SMU locations by right (increase from current 60% maximum)</li> <li>▫ Permit 75% lot coverage in all R-S locations by right (increase from current 70% maximum)</li> <li>▫ Permit 70% lot coverage in all Southside R-3 locations by right (increase from current 50% maximum)</li> <li>▫ No changes to C-SA locations.</li> </ul> </li> </ul>
<b>Parking</b>
<p>Zoning standards for parking are anticipated to be changed in the following ways:</p> <ul style="list-style-type: none"> <li>▪ Extend provisions of the Car-Free Housing (C-FH) Zone to all districts found in the Southside including R-3 (within Southside), and all of R-S. C-FH provisions will continue to apply in C-T and R-SMU.</li> <li>▪ Adjust the provisions of the Car-Free Housing Zone as follows:                             <ul style="list-style-type: none"> <li>▫ Allow removal of parking from existing housing anywhere in the C-FH without a use permit (parking for existing housing in the C-FH can currently be removed with a use permit).</li> <li>▫ Allow conversion of existing structured parking space into habitable residential or non-residential use anywhere in the C-FH.</li> </ul> </li> <li>▪ Eliminate all automobile parking minimums in the C-FH, and allow any new housing to be built with no automobile parking or reduced automobile parking. Institute parking maximums.</li> </ul>
<b>Ground-floor Residential Use</b>
<p>Zoning standards for ground-floor residential use are anticipated to be changed in the following ways:</p>

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- Allow ground-floor residential anywhere in C-T if it is located behind an active commercial use, with the commercial use fronting the street.
- In all Southside locations where there is ground-floor residential use, potentially include zoning provisions to incentivize or require ground-floor activation, including features such as:
  - Frequent pedestrian entries, porches, and/or stoops
  - Avoidance of blank walls through use of regular windows, façade details, and massing breaks
  - Active uses like community rooms, lobbies, usable space instead of utilities or parking
  - Other strategies to encourage active, pedestrian-oriented ground-floor residential frontages.

## 1.9 Buildout Forecasts and Assumptions

***[Buildout forecasts and assumptions to be provided separately prior to hearing]***

### 1.10 Required Approvals

In order for the proposed zoning ordinance updates to be implemented, they would require adoption by the City Council of the City of Berkeley. Prior to review by the City Council, the Planning Commission will review and forward its recommendations to the City Council. This EIR is intended to provide the information and environmental analysis necessary to assist the City in considering the approvals and actions necessary to adopt and implement the project. Such actions/approvals include:

- **Certification of the EIR.** Certify the Southside Zoning Ordinance Updated Project EIR and make environmental findings pursuant to CEQA.
- **Amendments to the City of Berkeley Municipal Code.** Amend Municipal Code text and map to include the zoning ordinance updates.

The City intends to use the streamlining/tiering provisions of CEQA to the maximum feasible extent, so that future environmental review of specific projects is expeditiously undertaken without the need for repetition and redundancy, as provided in CEQA Guidelines Section 15152 and elsewhere.

### 1.11 Have California Native American Tribes Traditionally and Culturally Affiliated with the Project Area Requested Consultation Pursuant to Public Resources Code Section 21080.3.1?

No California Native American Tribes have requested consultation pursuant to Public Resources Code Section 21080.3.1.

Project Description

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## Proposed Zoning Amendments

Staff and the consultant team have identified the following concepts to consider for zoning amendments to the existing zoning districts in the Southside Plan area. The zoning districts that currently exist in the Southside Plan area are:

- C-T (Telegraph Avenue Commercial)
- R-SMU (Residential Southside Mixed Use)
- R-S (Residential Southside High Density)
- R-3 (Multiple-Family Residential), and
- C-SA (South Area Commercial).

These existing districts are shown in the accompanying map, and their requirements are summarized in the accompanying table. The Southside Plan also established a Car-Free Housing Overlay District (C-FH), which currently applies to the C-T District, the R-SMU District, and some portions of the R-S District. The C-T, R-SMU, and R-S Districts – along with the C-FH – only occur in the Southside. Therefore, proposed changes to these “Southside-only” districts would only affect the Southside area. This may allow more flexibility for refinements to these districts through this effort. In contrast, the R-3 and C-SA districts occur in other parts of the City as well as the Southside. Proposed changes to these “citywide” districts would affect other parts of the City, which may complicate or allow less flexibility for potential refinements to these districts as part of this effort.

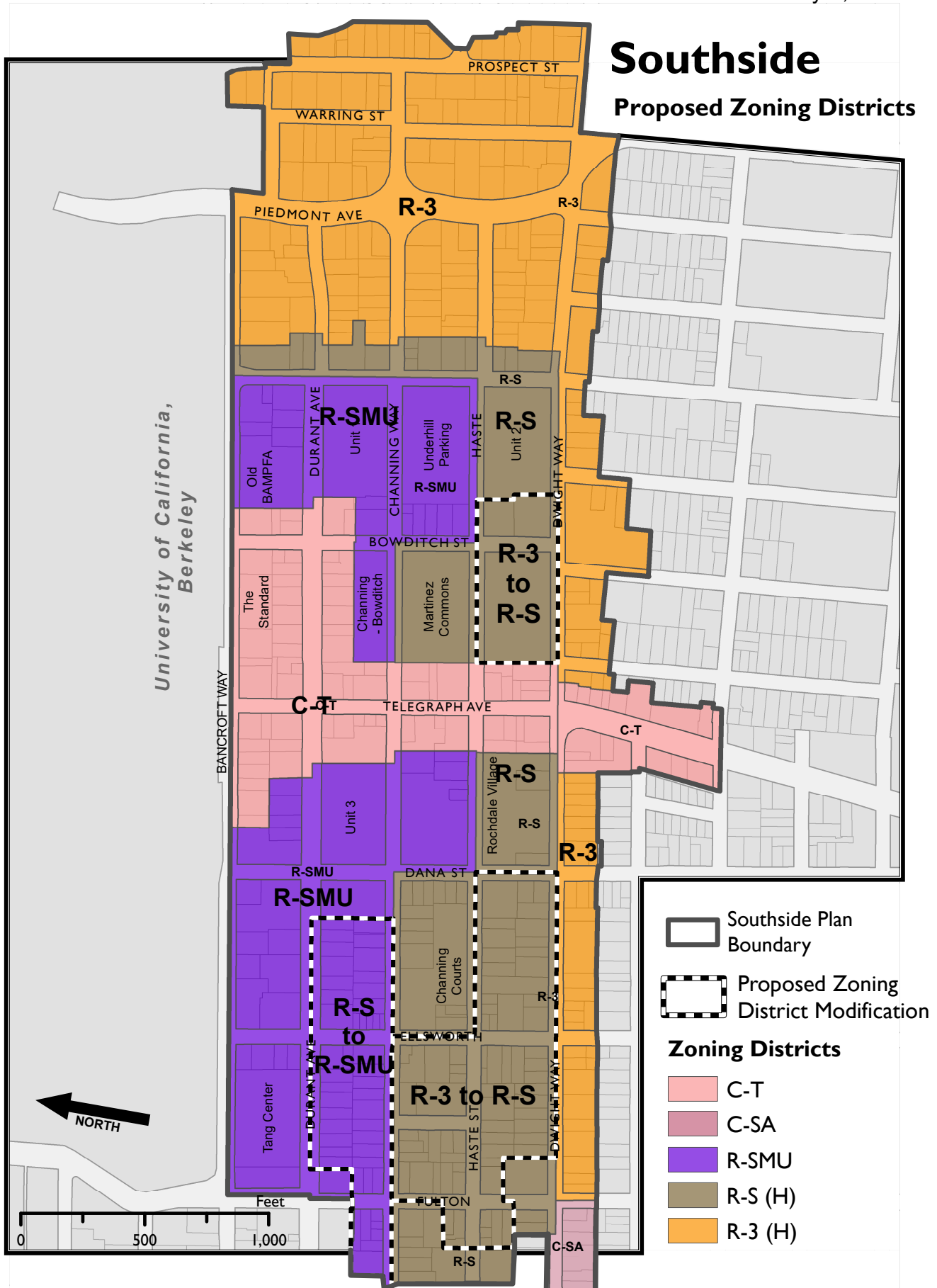
Topic	Potential Zoning Updates for Consideration	Notes and Questions
1. Building Height	<ul style="list-style-type: none"> <li>• For all Southside Districts, remove the Use Permit option to exceed height limits.</li> <li>• Institute new height limits in Southside District as follows:                             <ul style="list-style-type: none"> <li>○ Allow up to 65’ (6 stories) in R-SMU (68’ if including ground-floor retail)</li> <li>○ Allow up to 68’ (6 stories) in C-T north of Dwight</li> <li>○ Allow up to 55’ (5 stories) in R-S</li> </ul> </li> <li>• Allow up to two high rises of up to 12 stories in C-T (north of Dwight) or R-SMU.</li> </ul>	<p>Like in all districts of the City, some projects could choose to use state density bonus to exceed height maximums by providing affordable housing. However, requirements for “Type 1” concrete construction about 7 stories make it unlikely that projects with allowed heights of 5 or 6 stories would use state density bonus to exceed 7 stories.</p>

<p>2. Building Footprint (Setbacks and Lot Coverage)</p>	<ul style="list-style-type: none"> <li>• For all Southside Districts, remove discretionary review option to modify setbacks and lot coverage.</li> <li>• Remove front setback requirement for R-SMU and R-S (currently already allowed with AUP, and by right in C-T).</li> <li>• Consider decreasing side and/or rear setbacks for R-SMU, R-S, and/or R-3, as has been done in other urban districts in Berkeley such as C-T, Downtown Districts, or proposed Adeline zoning.</li> <li>• Increase permitted lot coverage in R-SMU from 60% to 85% by right.</li> <li>• Increase permitted lot coverage in R-S from 70% to 75% by right.</li> </ul>	<p>Many current setback ranges for R-SMU, R-S, C-SA, and R-3 are more consistent with lower density residential neighborhoods than with mixed-use, walkable urban neighborhoods like the Southside.</p> <p>Many existing residential buildings already have setbacks below existing zoning code minimums.</p> <p>Open space requirements would still apply regardless of lot coverage maximums.</p> <p>R-3 maximum lot coverage of 40%-50% is low for urban multi-family housing.</p>
<p>3. Parking</p>	<ul style="list-style-type: none"> <li>• Extend the Car-Free Housing Overlay District (C-FH) to all Southside districts, not just C-T, R-SMU, and R-S.</li> <li>• Parking for existing housing in the C-FH can currently be removed with a Use Permit; allow parking removal without a Use Permit.</li> <li>• Allow conversion of parking spaces to residential or non-residential use (similar to what is now allowed with state ADU law).</li> <li>• Allow new housing in the Southside to be built with no parking or reduced parking, and consider parking maximums.</li> </ul>	<p>The C-FH was established by the Southside Plan in 2011, and currently extends to all of C-T, all of R-SMU, and part of R-S (see map in Southside Plan).</p> <p>Large student population, low car ownership rates, and high rates of walking, biking, and transit use make Southside a good candidate for parking reductions.</p>

<p>4. Ground-floor Residential Use</p>	<ul style="list-style-type: none"> <li>• Allow ground-floor residential anywhere in C-T if it is located behind an active commercial use, with the commercial use fronting the street.</li> <li>• Allow new or converted ground-floor residential uses in C-T for the small number of parcels without frontage on Telegraph or Bancroft (such as along Bowditch) or on other side-street parcels where C-T transitions to R-SMU (such as on Channing, Haste, or portions of Durant).</li> <li>• In all Southside locations where there is ground-floor residential use, consider ground-floor activation strategies or requirements like:             <ul style="list-style-type: none"> <li>○ Frequent pedestrian entries, porches, and/or stoops</li> <li>○ Avoidance of blank walls through use of regular windows, façade details, and massing breaks</li> <li>○ Active uses like community rooms, lobbies, usable space instead of utilities or parking.</li> </ul> </li> </ul>	<p>Are there other strategies or considerations for ground-floor residential use?</p>
<p>5. Zoning District Locations</p>	<ul style="list-style-type: none"> <li>• Change some portions of R-S to R-SMU (see attached map)</li> <li>• Change some portions of R-3 to R-S (see attached map)</li> </ul>	<p>The primary effect of converting R-S locations to R-SMU, or of converting R-3 locations to R-S, would be additional height and housing development capacity.</p>

# Southside

## Proposed Zoning Districts





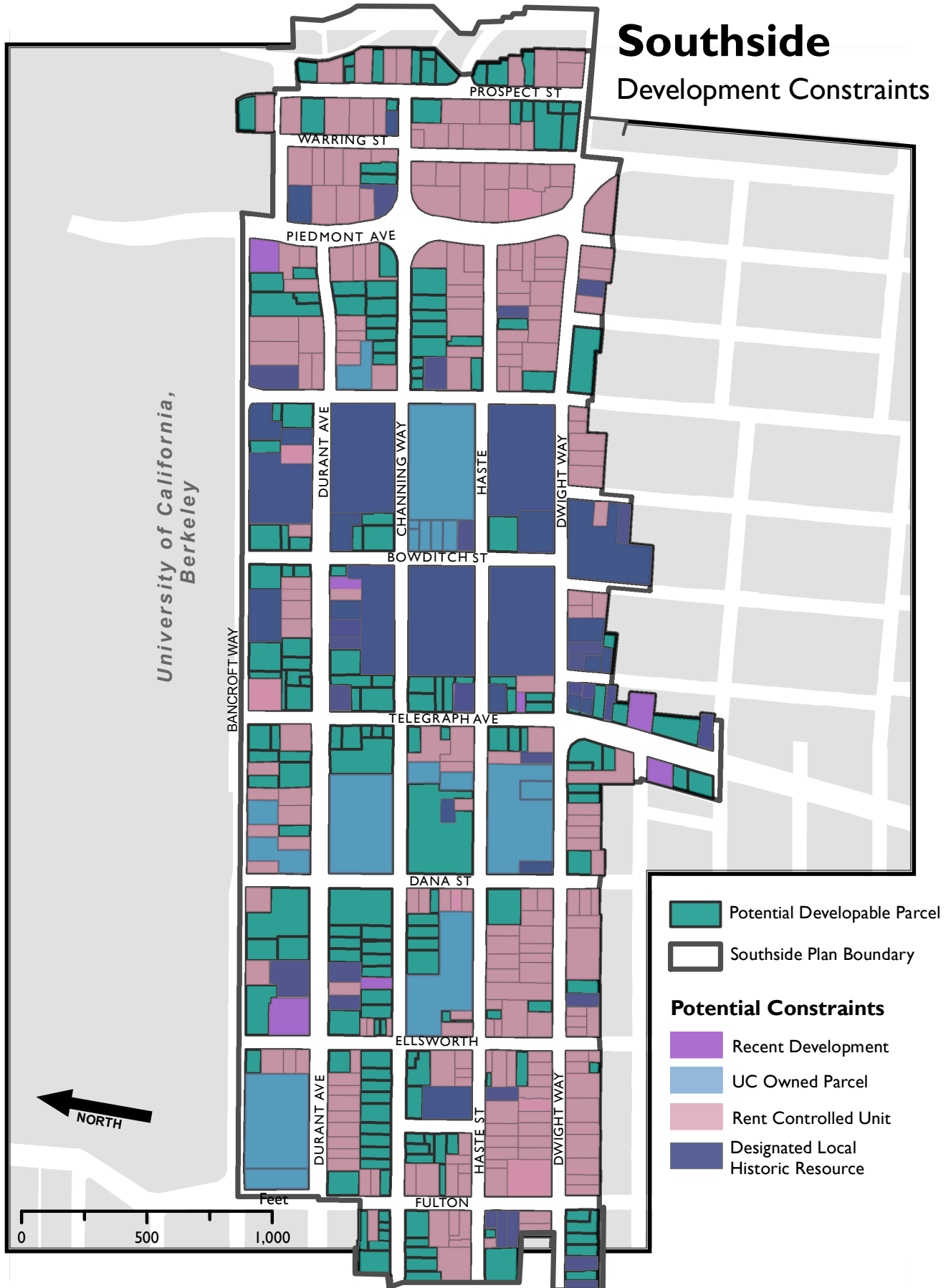
**Questions and Comments on the Southside Ordinance EIR Project Description**  
**Planning Commission Southside Subcommittee meeting**  
**December 17, 2019**

<b>Topic</b>	<b>General Direction from Subcommittee</b>	<b>Question/Concern</b>	<b>Staff Response</b>
Should the option for discretionary review to modify height, setback and lot coverage requirements be removed?	Support. Development standards should only be exceeded through density bonus process.	Can affordability or dedicated student housing be incentivized by reserving the greatest development potential for projects that go beyond the State's density bonus?	To be considered in zoning changes
Are the proposed height limits appropriate from the different districts? Are there particular locations in the C-T and R-SMU where 12-story buildings would be more or less appropriate, such as next to existing 9-story UC residence halls? Should more than two 12-story buildings be allowed?	Support for studying greater building heights in the Southside. Options for increased building heights east of College Avenue, additional 12-story buildings, and buildings taller than 12 stories were discussed.	Where should 12-story buildings go so they don't impact historic structures?  Are 12-story buildings feasible? Should we consider taller buildings?	12-story buildings could be limited to specific areas within the Southside.  At this time, 12-story buildings are considered feasible. Feasibility of taller buildings in Southside is not known and will require further study.
Are the proposed setbacks and lot coverage appropriate for the different districts? Should the R-3 maximum lot coverage (40% - 50%) be increased?	Support for studying greater lot coverage in the Southside.	Make sure increased lot coverage/reduced setbacks won't impact stormwater run-off.	To be studied in EIR
		Make sure to allow for some setbacks/green space for walkability/livability	To be considered in zoning changes
Are there other parking rules that should be considered for new development in the Southside?	Support for removing parking requirements for new and existing housing	OK to remove parking, but don't push parking into other neighborhoods	To be studied in EIR

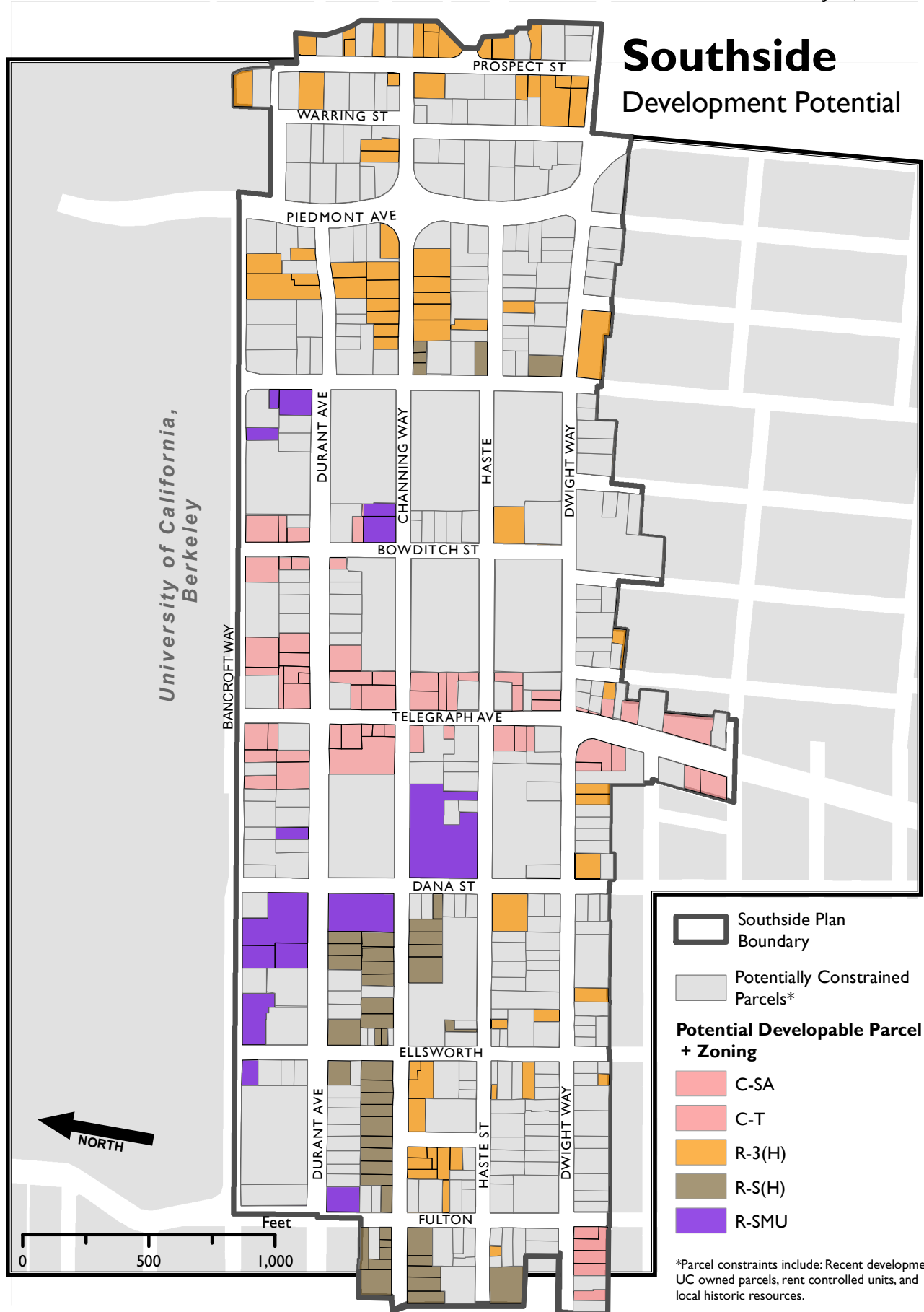
Topic	General Direction from Subcommittee	Question/Concern	Response
Are the options for conversion of ground floor commercial uses to residential appropriate?	Support for limiting conversion to the areas of the C-T that don't front Telegraph or Bancroft, unless the residential area is located behind a commercial tenant space.	Should consider limiting ground floor conversions along the portions of side streets that are within ½ block Telegraph. Have development standards to ensure ground floor uses are attractive.	Ground floor conversions in the C-T along Durant, Channing, Haste and Dwight will be considered when developing the Development Potential in the EIR. The ½ block of these streets may not significantly change this calculation. Development standards will be considered in the zoning changes.
Are the proposed locations for zoning district changes appropriate? Are there other locations where R-S and R-SMU could be extended?	Support proposed expansion of R-S and R-SMU districts, except onto parcels primarily developed with a landmark (Maybeck First Church building)	Could R-S be considered east of College Avenue?	The area east of College is not conducive for significant changes to density due to the size of lots and the density already in the area. Additional height and lot coverage could be allowed with changes to R-3 District. Revised map to be considered at 2-5-20 PC meeting.
Other topics from Subcommittee/public	Density - Support greater density in the Southside.	Are there enough developable sites to justify this project?	Yes. See maps for information on sites that do not have constraints.
		Should zoning changes be considered to the west and south of the current Plan area?	Expanding the area of zoning changes would have CEQA implications and change the scope of the project.
		How will the Southside baseline population be calculated?	Consider best practices and information from UC. Use census data if available.
	Feedback from other Commissions – Subcommittee did not give direction.	Should City Commissions, particularly the Design Review Commission, be involved in review of development standard changes?	This is a policy change that should be considered on a City-wide basis.

# Southside

## Development Constraints



# Southside Development Potential



\*Parcel constraints include: Recent development, UC owned parcels, rent controlled units, and local historic resources.



Planning and Development Department  
Land Use Planning Division

## STAFF REPORT

DATE: February 5, 2020

TO: Members of the Planning Commission

FROM: Alene Pearson, Principal Planner

SUBJECT: Public Hearing Regarding the General Plan Re-designation and Zoning Map Amendment of Project Site known as The Rose Garden Inn at 2740 Telegraph Avenue (APN 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00), and 2348 Ward Street (APN 054-1716-031-00)

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### RECOMMENDATION

Conduct a public hearing and make a recommendation to the City Council that portions of the parcels located at 2740 Telegraph Avenue (Assessor's Parcel Number [APN] 054-1716-002-00), 2744 Telegraph Avenue (APN 054-1716-003-00) and 2348 Ward Street (APN 054-1716-031-00) be re-designated from Low Medium Density Residential to Avenue Commercial and be rezoned from Restricted Two-Family Residential District (R-2) to General Commercial District (C-1).

### BACKGROUND

The Rose Garden Inn was originally established as a bed and breakfast in the 1970s. In the 1990s, it was converted to a hotel and restaurant. The Rose Garden Inn currently operates as a hotel with 40 guestrooms and a restaurant that is open to the general public.

The hotel occupies three parcels and includes five buildings (*see Attachments 2 and 3*). The three parcels under consideration for redesignation and rezoning are split-zoned between C-1 and R-2 (*see Attachment 4*). One building (Building D) is also split between C-1 and R-2. The property owner is requesting the General Plan re-designation and Zoning Map amendment to bring the existing hotel uses at the Rose Garden Inn into conformity with the General Plan and Zoning Map. Previous work on this property was approved with Use Permits, Design Review, Structural Alteration Permits (SAP) and a Variance. The rezone and redesignation will require appropriate review processes for future hotel improvements.

City Council Referral

Re-designation and Rezoning of a Portion of the Property known as The Rose Garden Inn

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## DISCUSSION

The property owner requests a General Plan amendment for APNs 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00 to change portions of the parcels located west of the Telegraph Avenue frontage from Low Medium Density Residential to Avenue Commercial to make the entire property Avenue Commercial, consistent with the portion of parcels that front Telegraph Avenue (*see Attachment 5*). This would also require a Zoning Map amendment to change those portions of the parcels from the Restricted Two-Family Residential (R-2) District [Berkeley Municipal Code (BMC) Chapter 23D.28] to the General Commercial (C-1) District [BMC Chapter 23E.36].

### *Purpose and Effect of Redesignation and Rezone*

The purpose of the requested redesignation and zoning map amendment is to bring the existing hotel uses at the project site into conformity with the General Plan and Zoning Map and to allow for future improvements to the hotel without need for a Variance (hotels are not allowed in the R-2 District). If approved, future improvements will be subject to C-1 development standards and regulations. The property owner is separately applying for Use Permits to upgrade and expand the non-historic portion of the hotel complex, which will be considered by the Zoning Adjustments Board if this zoning action is approved by the City Council; no changes to the overall use of the hotel are proposed and historic buildings (Berkeley Landmarks 125 and 126) will not be adversely impacted by these improvements.

The Planning Commission's role is to conduct a public hearing (*see Attachment 1*), consider testimony, and make a recommendation to the City Council regarding the requested General Plan and Zoning Map amendments according to BMC Section 22.04.020 (Amendment -- Procedures Required -- Planning Commission and City Council Authority), BMC Chapter 23A.20 (Zoning Ordinance Amendments), and California Government Code Sections 65353 and 65853. To recommend in favor of a redesignation and rezoning, the Planning Commission must consider the following two sets of findings. Staff has drafted statements in response to the findings to support the redesignation and rezoning of the parcels.

### *General Plan Redesignation Findings:*

#### **1. The proposed amendment is in the public interest.**

The proposed General Plan amendment serves the public interest by allowing the entire existing hotel use to operate within a unified Avenue Commercial land use designation. The existing hotel has been in operation in some form since the 1970s. It is located on a pedestrian-friendly corridor that is serviced by a high-frequency bus line and is walking distance from Alta Bates Hospital and the UC Berkeley campus.

#### **2. The proposed amendment is consistent and compatible with the General Plan.**

The proposed General Plan amendment will reconcile mapping irregularities that result in a split designation on a property that has been used as a hotel for several decades, as well as facilitate future renovation that would meet General Plan policies such as *Land Use Policy 13 and 27 (Basic Goods and Services and Avenue Commercial Areas)*, *Economic Development Policy 3 (Local Businesses)* and

City Council Referral

Re-designation and Rezoning of a Portion of the Property known as The Rose Garden Inn

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*Transportation Policy 16 (Access by Proximity) (see Attachment 6).* The Avenue Commercial land use designation would also be consistent with existing land use designations along the Telegraph Avenue commercial corridor.

**3. The potential effects of the proposed amendment have been evaluated and have been determined not to be detrimental to the public health, safety, or welfare.**

The amendment would not directly result in changes to the physical characteristics of the property or existing structures, but, as described in Finding 2 above, will facilitate renovation that would be completed in compliance with current codes and regulations. New development also would be reviewed for compliance with BMC and CEQA and would be constructed in compliance with California Building and Safety Code as adopted by the City of Berkeley.

**4. The proposed amendment has been processed in accordance with the applicable provisions of the California Government Code and the California Environmental Quality Act (CEQA).**

Staff evaluated the amendment request and determined it is categorically exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed amendment as well as the currently proposed renovation and expansion project. Section 15301 of the *CEQA Guidelines* states that a Class 1 Categorical Exemption (CE) is for minor alterations of existing private structures that involve negligible or no expansion of an existing use. Section 15303 states that a Class 3 CE is for construction of limited numbers of new structures and the conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure. Class 1 and Class 3 apply to the proposed project because the proposed amendment is undertaken to permit improvements to the existing hotel which are shown in pending Use Permit applications to include only minor expansions to the existing footprint and exterior of the buildings. Section 15305 states that a Class 5 CE is for minor alterations in land use limitations which do not result in changes to land use or density. As the proposed project includes only minor alterations to the land use limitations on a site with an existing building and does not include any proposed change to density, Class 5 applies to the proposed project. Section 15331 of the *State CEQA Guidelines* states that a Class 31 CE is for rehabilitation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for Rehabilitating Historic Buildings (1995). Class 31 applies to the proposed project because rehabilitation will be undertaken consistent with the Secretary of the Interior's standards as required by future Structural Alteration Permits. Notwithstanding the above, new development proposed subsequent to the rezoning will be subject to project-level review under CEQA and the City of Berkeley's Environmental Review Guidelines.

*Rezoning Findings:*

**1. The proposed zoning map amendment is in the public interest.**

The proposed rezoning of portions of the site from R-2 to C-1 serves the public interest by eliminating the legal non-conformity of a hotel use in an R-2 (Restricted Residential)

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Re-designation and Rezoning of a Portion of the Property known as The Rose Garden Inn

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zone. The amendment serves the public interest by allowing the entire existing hotel use to continue by-right within the General Commercial zoning district. The rezoning would correct a mapping anomaly that splits three parcels and a building, resolving unnecessary complexity in land use permitting processes and decisions for the site.

**2. The proposed zoning map amendment is compatible with adjacent zoning districts.**

The proposed zoning map amendment would align the boundary between the C-1 and R-2 Districts with existing property lines, approximately 50 feet to the west, to include the entire existing footprint of the Rose Garden Inn. The proposed rezoning is compatible with existing General Commercial zoning district to the east, north and south of the project site and would align with the proposed General Plan amendment described above. The R-2 zoning district to the west and south would remain undisturbed by this amendment and is consistent with similar compatible adjacencies in the area.

**3. The proposed zoning map amendment allows uses which would be compatible with adjacent districts uses.**

The proposed zoning map amendment moves the C-1/R-2 boundary approximately 50 feet west of its existing location. Adjacent parcels to the north and south have the same geometry as this block-face (i.e. C-1 parcels fronting Telegraph Avenue and R-2 parcels to the west of the C-1). The proposed rezoning of portions of the site from R-2 to C-1 would allow continuation of existing commercial uses at the project site that are compatible with commercial uses along the Telegraph Avenue corridor and have existed compatibly with the neighboring residential area. The proposed C-1 zoning would allow compatible mixed residential/commercial and higher density uses with approval of a Use Permit, which would be consistent with the remainder of properties along Telegraph Avenue.

**4. The potential effects of the proposed rezone will not be detrimental to the public health, safety and welfare.**

The proposed rezoning would not result in changes to the physical characteristics of the property or existing structure, but, as described in Finding 1 above, will facilitate compliance with current codes and regulations. New development would be reviewed for compliance with CEQA and be constructed to comply with the State Building and Safety Code as adopted by the City of Berkeley.

**NEXT STEPS**

Staff recommends that the Planning Commission conduct a public hearing; consider public testimony; and make a recommendation to the City Council regarding the redesignation and zoning map amendment of portions of the three subject parcels based on the findings listed above. The findings may be amended based on the public testimony and Planning Commission deliberations. A draft resolution for Council consideration is attached and may be modified based on Planning Commission feedback and recommendations (*Attachment 7*).



City Council Referral

Re-designation and Rezoning of a Portion of the Property known as The Rose Garden Inn

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To recommend in favor of a redesignation and rezoning, the Commission must consider and find in the positive (vote yes) on the two sets of findings. Should the Commission wish to recommend against the proposal, any motion would need to state that the Commission could not make one or more of the noted findings.

Recommended Action:

The Planning Commission recommends to the City Council that all of the parcels APN 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00 (known as the Rose Garden Inn, 2740 and 2744 Telegraph Avenue and 2348 Ward Street) receive a General Plan designation of Avenue Commercial and a zoning map designation of General Commercial District (C-1) as shown in the attached maps.

**ATTACHMENTS**

1. Public Hearing Notice
2. Project Location Map
3. Existing Site Plan
4. Project Site and Zoning District Map
5. Project Site and General Plan Designation Map
6. General Plan Policies and Actions
7. Council Resolution (draft)





# PLANNING COMMISSION

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## NOTICE OF PUBLIC HEARING

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### FEBRUARY 5, 2020

### **Amendments to the City of Berkeley Zoning Map and General Plan Map: 2740 and 2744 Telegraph Avenue and 2348 Ward Street (APN 054-1716-002-00, APN 054-1716-003-00 and 054-1716-031-00)**

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.030, on **Wednesday, February 5, 2020**, at the **South Berkeley Senior Center**, 2939 Ellis Street, Berkeley (wheelchair accessible). The meeting starts at **7:00 p.m.**

**PROJECT DESCRIPTION:** The property owner requests a rezoning and General Plan amendment for Assessor Parcel Numbers (APNs) 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00, shown on the attached map. These parcels comprise the project site and correspond to 2740 and 2744 Telegraph Avenue and 2348 Ward Street. The requested General Plan amendment would change portions of the parcels from Low Medium Density Residential to Avenue Commercial. The rezoning would change portions of the parcels from the Restricted Two-Family Residential (R-2) District [Berkeley Municipal Code (BMC) Chapter 23D.28] to the General Commercial (C-1) District [BMC Chapter 23E.36].

The purpose of the requested re-designation and rezone is to bring the existing hotel uses at the project site into conformity with the General Plan and Zoning Map and to allow for future improvements to the hotel. The property owner is separately applying for Use Permits to upgrade and expand the non-historic portion of the hotel complex, but no changes to the hotel use are proposed, and the historic buildings (Berkeley Landmarks 125 and 126) would not be adversely impacted.

Planning Commission will make a recommendation to City Council. City Council will consider recommendation at a public hearing (date to be determined, notice to be published).

**LOCATION:** The parcels proposed for rezoning and General Plan re-designation are portions of APN 054-1716-002-00, 154-1716-003-00, 054-1716-031-00 (2740 and 2744 Telegraph Avenue and 2348 Ward Street), Berkeley, California.

**ENVIRONMENTAL REVIEW STATUS:** Staff evaluated the amendment request and determined that it is exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed amendment as well as a proposed future hotel renovation project. Section 15301 of the *State CEQA Guidelines* states that a Class 1 Categorical Exemption (CE) is for minor alterations of existing private structures that involve negligible or no expansion of an existing use. Section 15303 states that a Class 3 CE is for construction of limited numbers of new structures and the conversion of

existing structures from one use to another where only minor modifications are made in the exterior of the structure. Section 15305 states that a Class 5 CE is for minor alterations in land use limitations which do not result in changes to land use or density. Section 15331 of the *State CEQA Guidelines* states that a Class 31 CE is for rehabilitation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's 1995 Standards for Rehabilitating Historic Buildings.

## **PUBLIC COMMENT**

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Comments may be made verbally at the public hearing and in writing before the hearing. Those wishing to speak at the hearing must submit a speaker card. Written comments concerning this project should be directed to:

Planning Commission  
**Alene Pearson, Secretary**  
Land Use Planning Division  
1947 Center Street  
Berkeley, CA 94704

Phone: (510) 981-7489  
E-mail: [apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info)

To assure distribution to Commission members prior to the meeting, **correspondence must be received by 12:00 noon, eight (8) days before the meeting date.** Fifteen (15) copies must be submitted of any correspondence that requires color printing or pages larger than 8.5x11 inches.

## **COMMUNICATION ACCESS**

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To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

## **FURTHER INFORMATION**

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Questions should be directed to **Alene Pearson**, at (510) 981-7489, or [apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info). Past and future agendas are also available on the Internet at: [https://www.cityofberkeley.info/Clerk/Commissions/Commissions\\_Planning\\_Commission\\_Homepage.aspx](https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx)





### Project Location Map



Imagery provided by Microsoft Bing and its licensors © 2018.  
Additional data provided by City of Berkeley, 2019; Alameda County, 2018.



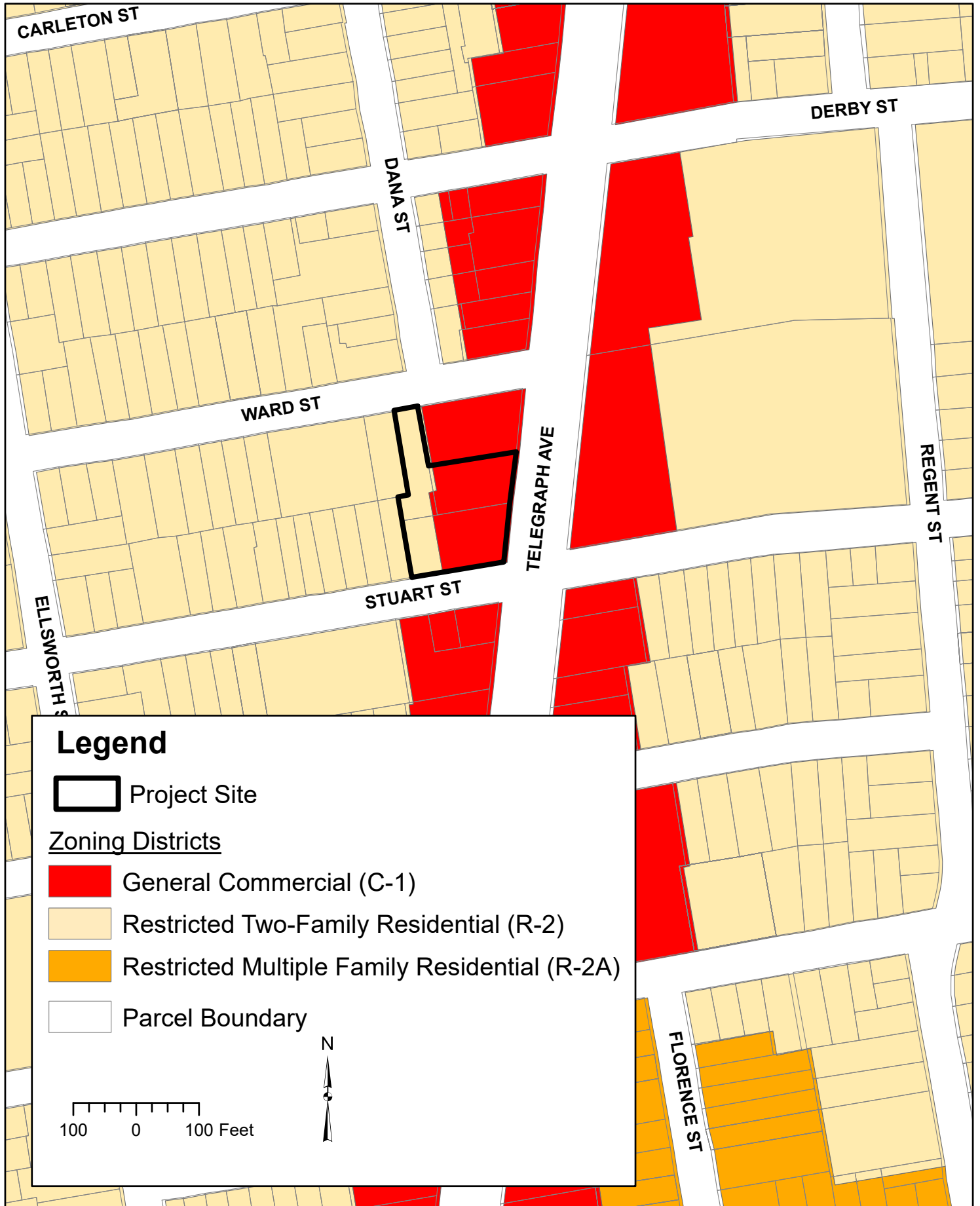


Existing Site Plan



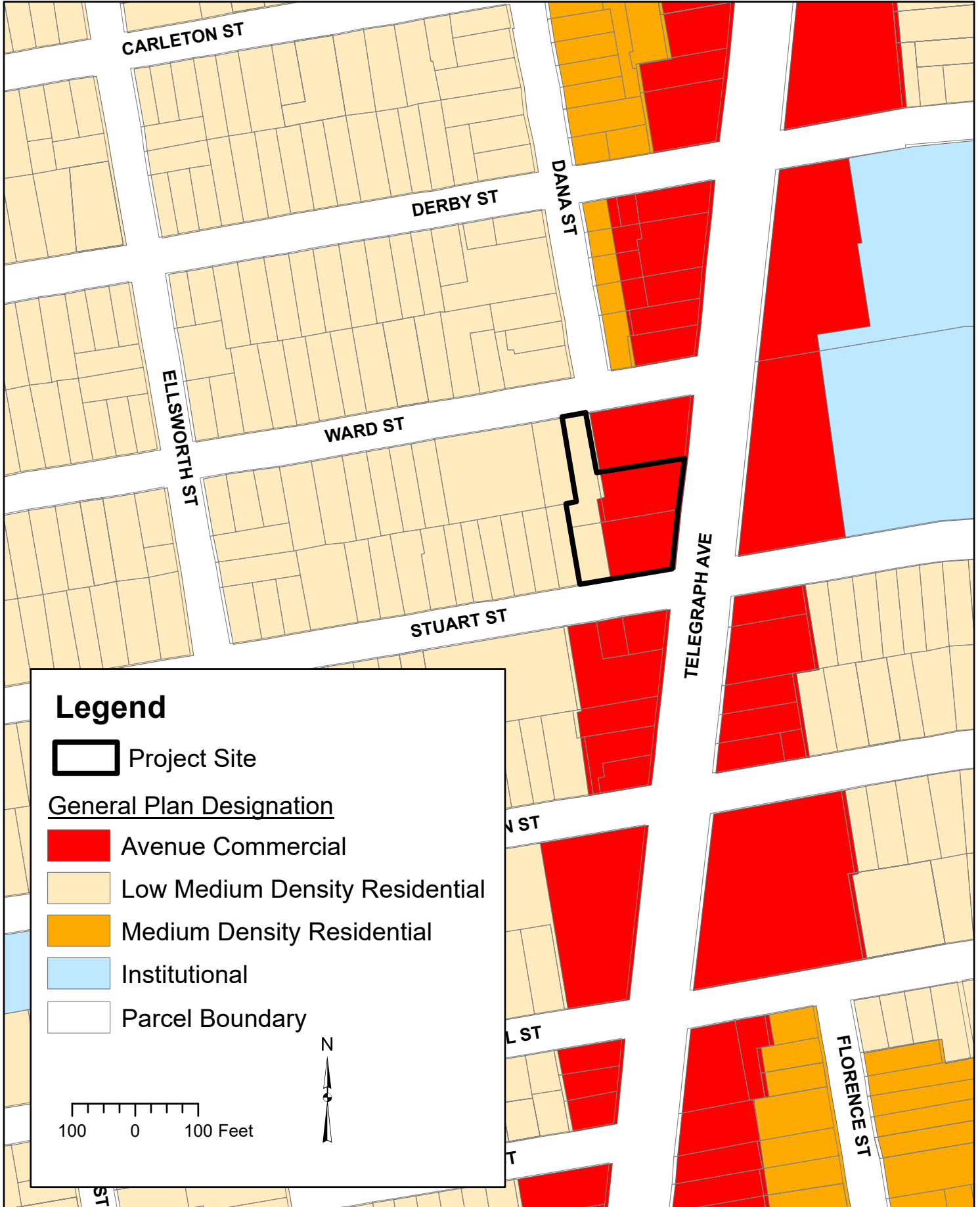


# PROJECT SITE AND CURRENT ZONING





# PROJECT SITE AND CURRENT GENERAL PLAN DESIGNATION





## GENERAL PLAN POLICIES AND ACTIONS

### **Policy LU-13 Basic Goods and Services**

Ensure that neighborhoods are well served by commercial districts and community services and facilities, such as parks, schools, child-care facilities, and religious institutions.

Actions:

- A. Locate commercial uses and community facilities throughout the city on transit corridors.
- B. Maximize joint City/Unified School District use of and planning for facilities such as recreation, libraries, and cultural centers.
- C. Encourage a range of child-care facilities, including family child-care home, public and private child-care centers, and recreation centers.
- D. Encourage coordinated housing, social, and child-care programs.

### **Policy LU-27 Avenue Commercial Areas**

Maintain and improve Avenue Commercial areas, such as University, San Pablo, Telegraph, and South Shattuck, as pedestrian-friendly, visually attractive areas of pedestrian scale and ensure that Avenue areas fully serve neighborhood needs as well as a broader spectrum of needs. (See Land Use Diagram for locations of Avenue Commercial areas. Also see Economic Development and Employment Policy ED-4 and Urban Design and Preservation Policy UD-28.)

Actions:

- A. Require ground-floor commercial uses to be oriented to the street and sidewalks to encourage a vital and appealing pedestrian experience.
- B. Ensure safe, well-lighted, wide walkways that are appropriately shaded for compatibility with upper-story residential units and adequate traffic signals for pedestrian street-crossings in commercial areas.
- C. Provide street trees, bus shelters, and benches for pedestrians in commercial areas.

- D. Provide bicycle facilities and ample and secure bicycle parking wherever appropriate and feasible.
- E. Maintain and encourage a wide range of community and commercial services, including basic goods and services.
- F. Encourage sensitive infill development of vacant or underutilized property that is compatible with existing development patterns.
- G. Regulate the design and operation of commercial establishments to assure their compatibility with adjacent residential areas.
- H. Maintain and improve the historic character of Avenue Commercial areas with design review and careful land use decisions.

### **Policy ED-3 Local Business**

Promote policies, programs, and services that support a diverse local economy providing a range of goods and services that support existing local businesses, and that encourage new, independent business ventures. (Also see Land Use Policy LU-13.)

Actions:

- A. Continue to provide low-interest loans to encourage and support local small businesses.
- B. Implement a small business preference program that would support local businesses.
- C. Implement a "Shop Berkeley Program" that would educate the public about the benefits of independent, community-serving enterprise and encourage the patronage of local businesses.
- D. Maintain City purchasing policies that support local businesses.
- E. Develop and implement planning and zoning mechanisms that promote community-serving commercial diversity and that limit development of undesirable chain stores, formula businesses, and big-box developments without limiting the ability of local businesses to grow and expand and, when needed, to establish additional outlets in various parts of the city.



**Policy T-16 Access by Proximity**

Improve access by increasing proximity of residents to services, goods, and employment centers. (Also see Land Use Policies LU-13 and LU-23, Housing Policy H-16, and Environmental Management Policy EM-41 Action B.)

Actions:

A. Locate essential commercial and other services in transit-oriented locations to reduce the need for cars and enable people living near transit and services to reduce auto trips.

B. Encourage higher density housing and commercial infill development that is consistent with General Plan and zoning standards in areas adjacent to existing public transportation services.

C. Encourage the University of California to provide additional housing within walking distance of campus to reduce University-related traffic.

D. Encourage siting of child-care facilities and other services in large residential or commercial facilities to reduce traffic impacts associated with child-care drop-off and pick-up.

E. In locations served by transit, consider reduction or elimination of parking requirements for residential development.



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RESOLUTION NO. ##,###-N.S  
AMEND THE BERKELEY GENERAL PLAN TO RE-DESIGNATE AND REZONE  
PARCELS WITH ASSESSOR PARCEL NUMBERS (APN) 054-1716-002-00, 054-  
1716-003-00 and 054-1716-031-00, FROM LOW MEDIUM DENSITY RESIDENTIAL  
TO AVENUE COMMERCIAL GENERAL PLAN DESIGNATIONS AND FROM  
RESTRICTED TWO-FAMILY RESIDENTIAL DISTRICT (R-2) TO GENERAL  
COMMERCIAL (C-1) ZONING DISTRICT

WHEREAS, the City Council of the City of Berkeley has the authority to approve Zoning Ordinance amendments and re-designate parcels from one General Plan land use designation to another in order to address unforeseen circumstances and changing priorities; and

WHEREAS, a General Plan amendment for re-designation from Low Medium Density Residential to General Commercial of the noted parcels (or portions of parcels) was prepared based on a request from a property owner to modify and unify the lawful nonconforming hotel uses that are currently operating in Low Medium Density Residential to a compliant General Plan designation of Avenue Commercial; and

WHEREAS, a Zoning Ordinance amendment for rezone from R-2 to C-1 of the noted parcels (or portions of parcels) was prepared based on a request from a property owner to modify and unify the nonconforming hotel uses that are currently operating in R-2 zoning district to a compliant C-1 zoning district to eliminate the non-conformity; and

WHEREAS, the Planning Commission held a duly noticed public hearing and took public testimony on February 5, 2020, which was preceded by the distribution of notices in accordance with State and local noticing requirements; and

WHEREAS, February 5, 2020, the Planning Commission voted to recommend that the City Council adopt a General Plan re-designation and rezone of Assessor Parcel Numbers (APN) 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00; and

WHEREAS, on ##/##/##, the City Council held a duly noticed public hearing to consider the General Plan re-designation and rezone of Assessor Parcel Numbers (APN) 054-1716-003-00 and 054-1716-031-00; and

WHEREAS, the amendment is consistent with the General Plan by allowing an existing nonconforming hotel use with a Low Medium Density Residential designation to continue functioning in the compliant Avenue Commercial designation; and

WHEREAS, the amendment serves the public interest by allowing an historic hotel use to continue functioning compliant with the General Plan designation and zoning district that is also compatible with other commercial uses in the Telegraph Avenue corridor; and

WHEREAS, the amendment would support the public health, safety and welfare of the City by bringing a nonconforming use into a compliant general land use and zoning designation; and

WHEREAS staff evaluated the amendment request and determined it is exempt from CEQA pursuant to Classes 1, 3, 5, and 31, which apply to the proposed amendment as well as a proposed future hotel renovation project. Section 15301 of the *State CEQA Guidelines* states that a Class 1 CE is for minor alterations of existing private structures that involve negligible or no expansion of an existing use. Section 15303 states that a

[Type here]

Class 3 CE is for construction of limited numbers of new structures and the conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure. Section 15305 states that a Class 5 CE is for minor alterations in land use limitations which do not result in changes to land use or density. Section 15331 of the *State CEQA Guidelines* states that a Class 31 CE is for rehabilitation or reconstruction of historical resources in a manner consistent with the Secretary of the Interior's Standards for Rehabilitating Historic Buildings (1995); and

WHEREAS, there will be no detrimental impacts to the public health, safety or welfare, as the property is currently occupied by a hotel and will continue to function as a hotel after the General Plan re-designation from Low Medium Density Residential to General Commercial and rezoning from R-2 to C-1; and

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

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Berkeley that the General Plan is hereby amended, as shown in Exhibit A, and the zoning map is amended as shown in Exhibit B.

Attachments:

EXHIBIT A: Map of General Plan amendment of three parcels (or portions of parcels) from Low Medium Density Residential to Avenue Commercial, Assessor Parcel Numbers (APN) 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00.

EXHIBIT B: Map of zoning district amendment modifying three parcels (or portions of parcels) from R-2 to C-1, Assessor Parcel Numbers (APN) 054-1716-002-00, 054-1716-003-00 and 054-1716-031-00.



Planning and Development Department  
Land Use Planning Division

## STAFF MEMORANDUM

DATE: February 5, 2020  
TO: Members of the Planning Commission  
FROM: Katrina Lapira, Assistant Planner  
SUBJECT: Accessory Dwelling Units Discussion

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### BACKGROUND

[Assembly Bill 881](#), [Assembly Bill 68](#), and [Senate Bill 13](#) were signed by Governor Newsom on October 9, 2019, requiring local jurisdictions to relax or eliminate most restrictions on the development of accessory dwelling units (ADUs). At the Planning Commission meeting on November 6, 2019, staff discussed these new ADU laws along with other housing bills passed during 2018-2019 legislative season (*Attachment 3*).

In anticipation of the effective date of the ADU laws, on December 10, 2019, the City Council passed an Urgency Ordinance amending Berkeley Municipal Code Chapter 23C.24 (ADU Ordinance) to comply with the new state law and establish interim limits on ADU development in the Environmental Safety- Residential District (ES-R) and within the Hillside Overlay District Berkeley on lots that that front on a street with less than 26 feet of pavement width (*Attachment 2*). To allow for additional time to receive public input and discussion of a local ADU ordinance, the City Council extended the provisions of the interim ordinance through December 31, 2020 (*Attachment 1*).

Throughout this period, Planning staff has been working with the Building and Safety Division, the City Attorney's office, and the State Housing and Community Development Department (HCD) to understand how the new regulations impact specific zoning standards and application processing procedures. The Accessory Dwelling Ordinance Summary (*Attachment 4*) reflects this analysis of the new laws as applied to the City of Berkeley. During the course of this review, staff has identified the following areas where regulations can be modified to develop a local Zoning Ordinance that is consistent with Berkeley's Zoning Ordinance and with State law:

- Open space requirements
- Coverage requirements

- Maximum size requirements
- Front yard setback requirements
- Efficiency kitchen definition
- Objective design standards
- Objective standards for accessory structures (e.g. balconies, decks)
- Objective standards for projections (e.g. eaves, bay windows)
- Objective standards for properties listed in the California Register of Historic Resources
- Objective standards for properties in the ES-R and the Hillside Overlay on roads less than 26 feet in width
- Expansion of ADUs created from conversion of legally non-conforming buildings/structures

In addition to these considerations, there are several referrals (*Attachment 5*) not addressed by new State law that the Commission may want to consider, including the following:

- Incentives for affordability restrictions (May 15, 2018)
- Incentives for universal design (September 13, 2018)
- Require signed receipt of information on rent control, tenant protections and short term rental rules when ADU permits are issued (Sept 13, 2018)

### **NEXT STEPS**







Planning Commission is asked to provide comment on the policy areas discussed above and direct staff to return in March or April with proposed Zoning Ordinance amendments for consideration.

### **ATTACHMENTS**

1. [City Council Staff Report \(ADU Urgency Ordinance Extension\) – January 21, 2020](#)
2. [City Council Staff Report \(ADU Urgency Ordinance\) – December 10, 2019](#)
3. [Planning Commission Staff Report \(2019 CA Legislative Update\) – November 6, 2019](#)
4. Accessory Dwelling Unit Ordinance Summary – Last updated on January 27, 2020
5. ADU Referrals

**Processing + Land Use Development Standards**

Ministerial land use approval for ADUs will be issued within **60-days** of receiving a **complete** building permit application.

	JADU <sup>1</sup>	SINGLE – FAMILY ADU			MULTIFAMILY ADU	
ADU Type	 <b>Conversion JADU<sup>2</sup></b> <i>[interior conversion of some portion of a single-family dwelling]</i>	 <b>Conversion ADU<sup>2</sup></b> <i>[interior conversion of existing habitable or non-habitable area within a single-family dwelling, or conversion of a legally built detached accessory structure or accessory building]</i>	 <b>Detached ADUs</b> <i>[new construction]</i>	 <b>Attached ADU</b> <i>[addition/new construction]</i>	 <b>Conversion ADU</b> <i>[interior conversion of existing non-habitable area of multifamily building]</i>	 <b>Detached ADUs</b> <i>[new construction]</i>
Zoning	Allowed on all lots zoned for residential use except in the following districts/circumstances: Environmental Safety- Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM), Mixed Use-Light Industrial (MU-LI), Unclassified (U), and on a lot with frontage on a roadway with less than <b>26 feet</b> in pavement width in the Hillside Overlay (H).					
Number of Accessory Units	1	1			At least one and no more than 25% of the existing unit count in multifamily building. <sup>3</sup>	2
Maximum Size (Square Feet)	500	850 for studio and 1 bedroom 1,000 for 2+ bedrooms	1,200	No more than 50% of the floor area of an existing or proposed primary dwelling unit	850 for studio and 1 bedroom 1,000 for 2+ bedrooms	1,200
Maximum Height (Feet)	N/A	N/A	16		N/A	16
Side Setbacks (Feet)	N/A	N/A	4		N/A	4
Rear Setbacks (Feet)	N/A	N/A	4		N/A	4
Entrance(s)	Exterior entrance required.	Exterior entrance required.			Independent entrance required. <sup>4</sup>	
Kitchen	Efficiency kitchen required. <sup>5</sup>	Full kitchen required. <sup>6</sup>				
Parking Requirements	N/A	No parking required for ADUs. Replacement parking for existing dwelling unit(s) not required when a garage, carport, or covered parking structure is physically replaced by an accessory dwelling unit. <sup>7</sup>				
Deed Restrictions	The owner of the property must record a deed restriction to include the requirements listed in Government Sections 65852.2 and 658582.22.	The owner of the property must record a deed restriction with Alameda County that restricts the sale of the ADU from the existing dwelling unit(s) and prohibits Short Term Rentals.				
Owner Occupancy	Required for either single-family dwelling or JADU.	Not required for ADUs permitted between January 1, 2020 and January 1, 2025.				
Natural Gas Prohibition	Does not Apply	May Apply <sup>8</sup>	Applies	Does not Apply	Does not Apply	Applies
Short Term Rentals	Prohibited					
Impact Fees	None	ADUs Less than 750 SF- None ADUs Equal to or Greater than 750 SF- Impact fees collected must be proportional to square footage of existing dwelling unit(s).				
Utility Fees and Connections	No connection fee or capacity charge and no direct line required between ADU or JADU and utility unless in conjunction with a new single-family dwelling.	Connection fee or capacity charge “proportionate to the burden” of the ADU and may require new or separate utility connections.				

<sup>1</sup> A Junior ADU (JADU) is a small dwelling unit created from some portion of a single family dwelling. These units can have their own bathroom facilities or share with the single family dwelling.

<sup>2</sup> Conversions do not allow modifications to building footprint/ dimensions of legally built structures or buildings, except where sufficient egress and ingress requires modifications -- in which case, an expansion of up to 150 square feet is allowed for JADUs and legally built accessory buildings and structures.

<sup>3</sup> When calculating, round down to the nearest integer.

<sup>4</sup> Exterior entrance not required, but independent entrance (e.g. off hallway, stairwell or other common space) is required.

<sup>5</sup> An efficiency kitchen includes 1) a sink; 2) a cooking facility with appliances; and 3) food preparation counter and storage cabinets.

<sup>6</sup> A full kitchen requires habitable space used for preparation of food that contains at least a sink, a refrigerator of no less than 10 cubic feet, and either a cooktop and an oven, or a range.

<sup>7</sup> Removal of off-street parking requires restoration of curb, gutter, sidewalk, and landscaping per BMC 16.04.150.

<sup>8</sup> Conversions of detached Accessory Buildings or Accessory Structures that involve Demolition are subject to the Natural Gas Prohibition.

N/A = not applicable

SF = square feet







Office of the City Manager

ACTION CALENDAR  
May 15, 2018

To: Honorable Mayor and Members of the City Council  
From: Dee Williams-Ridley, City Manager  
Submitted by: Timothy Burroughs, Director, Planning and Development Department  
Subject: Referral Response: Repeal Existing Accessory Dwelling Unit Ordinance (Chapter 23D.10), Adopt New Accessory Dwelling Unit Ordinance (Chapter 23C.24) and Modify Applicable Sections of the Zoning Ordinance that Apply to Accessory Dwelling Units

RECOMMENDATION

Adopt first reading of an ordinance amending the Zoning Ordinance to modify existing regulations for Accessory Dwelling Units (ADUs) in order to clarify and further streamline the permitting process for ADUs, repealing Berkeley Municipal Code Chapter 23D.10, enacting Berkeley Municipal Code Chapter 23C.24, and amending BMC Titles 23D, 23E, and 23F.

SUMMARY

In 2017, the City of Berkeley amended its ADU ordinance to comply with amendments to State ADU laws. Since then, the Planning Commission assessed the updated ADU ordinance and considered a range of additional modifications based on feedback from the community and direction from the City Council. The proposed amendments described in this report further clarify and streamline permitting of ADUs.

FISCAL IMPACTS OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

Government Code section 65852.2 ("State ADU Law") was amended in January 2017 in order to streamline the permitting process for ADUs. This change required the City of Berkeley to expeditiously update its ADU ordinance in order to remain in compliance with State ADU Law. Berkeley adopted revised regulations in March 2017, and since that time has seen a significant uptick in ADU permitting:

<b>Total Number of ADUs Permitted</b>	
<u>2016</u>	<u>2017</u>
14	57

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Referral Response: Zoning Ordinance Amendments  
Regarding Accessory Dwelling Units

ACTION CALENDAR  
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In addition to implementing the State ADU Law, which encourages ADU development, on November 28, 2017, the Berkeley City Council adopted a Housing Action Plan that includes a high priority referral asking the Planning Commission to eliminate barriers to building and renting ADUs (for background see [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/2017-11-28\\_Item\\_22\\_Implementation\\_Plan\\_for\\_Affordable\\_Housing\\_-\\_Supp.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/2017-11-28_Item_22_Implementation_Plan_for_Affordable_Housing_-_Supp.aspx)).<sup>1</sup>

In this context, City staff sought input from applicants and interest groups, reviewed Berkeley's regulations, re-examined State ADU Law, drafted clarifications and modifications to improve the ADU ordinance, and presented ideas to the Planning Commission. The Planning Commission held three public meetings, including a duly noticed public hearing, to discuss proposed modifications to the ADU ordinance. The Planning Commission considered public input and is recommending a set of changes to the ADU ordinance that clarify and encourage streamlined permitting of ADUs.

The following section summarizes the Planning Commission's recommendations, which have been drafted and supported by staff.

Planning Commission Actions

The Planning Commission considered modifications to Berkeley Municipal Code Chapter 23D.10 on October 4, 2017, November 15, 2017, and January 17, 2018. At its January 17, 2018 meeting the Planning Commission recommended by unanimous vote the following modifications to the ADU ordinance:

1. Expand zoning districts where ADUs are allowed to include all Commercial districts and the Mixed-Use Residential (MU-R) district where paired with an existing or new single-family residence. This modification would allow ADUs on parcels that are not in residential zoning districts, but that are serving a residential purpose because of the existence of a single-family home on the parcel. This modification requires:
  - a. Updating the "Permitted Uses" tables in all Commercial districts and the Mixed Use-Residential (MUR) district to include ADUs.
2. Move the ADU ordinance from Subtitle 23D (Provisions Applicable in All Residential Districts) to Subtitle 23C (General Provisions Applicable in All Districts). If ADUs are allowed in all Commercial districts and in the MU-R District, this modification will be necessary to maintain structural integrity of the zoning ordinance. This modification requires:
  - a. Repealing Chapter 23D.10 (Accessory Dwelling Units).

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<sup>1</sup> The Council-adopted list of Housing Action Plan referrals from Nov. 28, 2017, including high priority referral #13 asking to eliminate obstacles to ADUs, can be found at [https://www.cityofberkeley.info/Clerk/City\\_Council/2017/11\\_Nov/Documents/11-28\\_Annotated.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2017/11_Nov/Documents/11-28_Annotated.aspx)

Referral Response: Zoning Ordinance Amendments  
Regarding Accessory Dwelling Units

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- b. Adopting Chapter 23C.24 (Accessory Dwelling Units).
  - c. Updating code references in applicable "Permitted Uses" tables.
3. Modify the following Development Standards:
- a. ADU Height: The current ADU ordinance allows a Maximum Height of 10 feet for flat roofs and 14 feet for peaked roofs. This development standard limits roof design and makes no accommodations for development on steep slopes in the Hillside Overlay District. The following modifications will provide design flexibility while maintaining control over impacts to neighbors:
    - i. Set Maximum Height to 14 feet by-right.
    - ii. Allow Maximum Height of up to 18 feet with an AUP.
    - iii. Allow 14 feet Average Height in the Hillside Overlay with an AUP.
    - iv. Allow Average Height of up to 18 feet in the Hillside Overlay with an additional AUP.
  - b. ADU Gross Floor Area (GFA): GFA development standards are intended to create infill ADU development that is small scale and low impact. The following modifications allow for larger by-right ADUs and limit requests to exceed maximum GFA, thereby reducing the number of discretionary permits and encouraging by-right, streamlined ADUs:
    - i. Increase maximum GFA to 850 square feet (was previously 750 square feet).
    - ii. Remove limitation on ADU size set by "percentage of the square footage of the Primary Dwelling Unit" (was previously 75%).
    - iii. Remove exception to exceed maximum GFA with an AUP.
  - c. Allow ADU entrances on the front of the Primary Dwelling Unit. Current regulations attempt to limit aesthetic impacts to neighborhoods by requiring that separate entrances be located to the side or rear of a dwelling. This modification removes that possible barrier to ADU development. It provides design flexibility, addresses constraints due to odd lot configurations, and is expected to create minimal impact on neighbors.
4. Update the existing ADU definition and create a definition for Primary Dwelling Unit. This modification is necessary to clearly define an ADU in the Zoning Ordinance.
5. Remove obsolete references to ADUs in the Zoning Ordinance. After multiple amendments to the ADU ordinance, the following modifications are necessary to maintain referential integrity within the Zoning Ordinance:

Referral Response: Zoning Ordinance Amendments  
Regarding Accessory Dwelling Units

ACTION CALENDAR  
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- a. Update parking tables in residential districts to remove obsolete references to ADU parking requirements.
  - b. Remove lot size requirement for ADUs from the R-1 district.
6. Clarify regulations to avoid ambiguity and the need for interpretations. Substantive changes to ADU regulations are stated in bullets 1 through 3 above. Some further modifications to internal cross-references do not change ADU regulations – they are intended to clarify language and improve administration of the ordinance.
7. Update the structure and wording of the ADU ordinance. Substitutive changes to ADU regulations are stated in bullets 1 through 3 above. Some further modifications to the structure of the ordinance do not change ADU regulations – they are intended to create an ordinance that is easier for the public to read and understand.

The Zoning Ordinance amendment is included as Attachment 1 (*Zoning Ordinance Amendment to Repeal Berkeley Municipal Code Chapter 23D.10, Adopt Berkeley Municipal Code Chapter 23C.24, and Amend Berkeley Municipal Code Sections 23D.16.030, 23D.16.070, 23D.16.080, 23D.20.030, 23D.20.080, 23D.28.030, 23D.28.080, 23D.32.030, 23D.32.080, 23D.36.030, 23D.36.080, 23D.40.030, 23D.40.080, 23D.44.030, 23D.44.080, 23D.48.030, 23D.52.030, 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.56.030, 23E.60.030, 23E.64.030, 23E.68.030, 23E.84.030 and 23F.04.010 to Modify the Accessory Dwelling Unit Ordinance*). A version of Chapter 23D.10 with proposed edits is included as Attachment 2 (*Existing Berkeley Municipal Code Chapter 23D.10 Showing Red-lined Edits*).

#### BACKGROUND

An ADU is a secondary Dwelling Unit on a lot that has one Primary Dwelling Unit. ADU development is one mechanism of a multi-pronged strategy that can help alleviate the current housing shortage. ADUs provide low-impact infill development that preserves neighborhood character and can potentially be more affordable to rent.

State ADU laws were amended in January 2017, requiring municipalities to streamline the permitting process for ADUs while adhering to broad minimum and maximum statewide standards and creating more specific local development standards (such as Setbacks, Maximum Height, and GFA) that:

1. Are consistent with State regulations;
2. Are appropriate to local conditions;
3. Maintain public health and safety of residents; and
4. Do not impede ADU development.

The intent of streamlining is to allow ADUs to be built with a limited planning permit process, as long as proposed ADUs meet local “by right” development standards. In Berkeley, “by right” approval means projects that are fully compliant with State and local standards, and can be developed with a Zoning Certificate (ZC) and a Building Permit. Because these are ministerial permits, they do not require notice to neighbors or public input and are not appealable or subject to environmental review.

The Planning Commission considered this item at three public meetings between October 2017 and January 2018. A wide range of possible modifications and updates to the existing ADU ordinance were discussed. The Commission concluded that ADU amendments fell into two categories: those that would be addressed by this effort and those that needed additional research and analysis:

#### Addressed in the Modified Ordinance

The Commission chose to focus on these components of the existing ADU ordinance, as they were identified to be of immediate benefit and would encourage streamlined by-right ADUs.

- Expanding allowable districts for ADUs
- Setting appropriate development standards
- Adjusting availability and level of discretion for modifying development standards
- Updating/adding definitions related to ADUs
- Updating findings related to ADUs
- Updating ADU ordinance structure
- Updating ADU ordinance wording
- Removing obsolete ADU references
- Clarifying regulations to avoid ambiguity and the need for interpretations
- Maintaining compliance with State ADU Law

#### Need Additional Research and Analysis

In addition to the areas of focus listed above, other options were discussed and determined to be more complex. The following considerations were set aside for future study and are not part of the Planning Commission’s current recommendations:

- Removing the owner-occupancy requirement. (The ADU ordinance currently requires the property owner to live in either the ADU or the Primary Dwelling Unit. Many jurisdictions including Berkeley impose this regulation to ensure ADU infill development does not impact neighborhood character or quality. Whether Berkeley is willing to allow two non-owner occupied units remains to be discussed with the Planning Commission.)
- Modifying the 3-year exemption to owner-occupancy. (Berkeley currently allows a 3-year exemption to the owner-occupancy requirement to account for longer-term

- owner absences such as sabbaticals. Whether and how this is enforced remains a topic for further conversation with the Planning Commission.)
- Regulating conversions versus demolitions of existing non-conforming buildings. (Conversions of existing buildings often end up being demolitions because of the extent of the work required to bring a building into a habitable condition that meets current codes. Non-conforming buildings can't usually be replaced with a habitable building without more substantial permitting because of possible impacts to neighbors.)
  - Imposing affordability restrictions on ADU rentals. (Rent limitations are not generally applicable to new dwelling units.)
  - Allowing multiple ADUs on a lot. (ADUs are meant as a support to the main dwelling and homeowner, and are generally expected to be minor in relation to the main dwelling. Multiple ADUs may not meet this expectation.)
  - Allowing ADUs on lots with multi-family units. (ADUs were conceived as a means of promoting infill in single-family neighborhoods at a small scale. Multi-unit properties are already at a higher density and provide infill efficiencies. The State defines them as accessory to a main dwelling.)

The staff report and minutes from the Planning Commission's final public hearing on January 17, 2018 are included as Attachments 3 and 4 respectively.

#### ENVIRONMENTAL SUSTAINABILITY

Streamlining the permitting process for ADUs has the potential to modestly increase density in zoning districts where development potential is limited. Because Berkeley is well served by a variety of transit, bicycle and pedestrian options, as well as a wide range of local jobs and services, increased housing opportunities in Berkeley have the potential to decrease greenhouse gas (GHG) emissions by reducing vehicle miles traveled, because people can live closer to their Berkeley destinations and can use alternative means of travel. ADUs are also considered an effective strategy to reduce GHGs due to small building footprints and reduced energy and materials needed for their construction and maintenance.

#### RATIONALE FOR RECOMMENDATION

The proposed amendments to the Zoning Ordinance would address one of the City Council's high-ranking referrals in the Housing Action Plan. The amendments will make the ADU ordinance easier to understand, easier to administer and will help streamline the ADU permitting process.

#### ALTERNATIVE ACTIONS CONSIDERED

Delay City Council's review of the ADU ordinance while additional modifications are studied and discussed.

#### CONTACT PERSON

Alene Pearson, Associate Planner, Planning and Development, 981-7489

Referral Response: Zoning Ordinance Amendments  
Regarding Accessory Dwelling Units

ACTION CALENDAR  
May 15, 2018

**Attachments:**

1. Zoning Ordinance Amendment to Repeal Berkeley Municipal Code Chapter 23D.10, Adopt Berkeley Municipal Code Chapter 23C.24, and Amend Berkeley Municipal Code Sections 23D.16.030, 23D.16.070, 23D.16.080, 23D.20.030, 23D.20.080, 23D.28.030, 23D.28.080, 23D.32.030, 23D.32.080, 23D.36.030, 23D.36.080, 23D.40.030, 23D.40.080, 23D.44.030, 23D.44.080, 23D.48.030, 23D.52.030, 23E.36.030, 23E.40.030, 23E.44.030, 23E.48.030, 23E.52.030, 23E.56.030, 23E.60.030, 23E.64.030, 23E.68.030, 23E.84.030, and 23F.04.010 to modify the Accessory Dwelling Unit Ordinance.
2. Existing Berkeley Municipal Code Chapter 23D.10 Showing Red-lined Edits
3. January 17, 2018 Planning Commission Staff Report
4. January 17, 2018 Planning Commission meeting minutes



Commission on Disability

CONSENT CALENDAR  
September 13, 2018

To: Honorable Mayor and Members of the City Council  
From: Commission on Disability  
Submitted by: Shira Ilana Leeder, Chairperson, Commission on Disability  
Subject: Consideration of Accessibility in Accessory Dwelling Units

RECOMMENDATION

The Commission on Disability is recommending that the Council, by resolution if needed, include input from the disability community, accessibility experts, and other related stakeholders, prior to finalization of the Accessory Dwelling Unit ordinance amendment process. We would like the Council to include special considerations for creating Accessory Dwelling Units that are visitable and accessible when possible, and consider incentives for accessibility. Changes in the Accessory Dwelling Unit ordinance represents an opportunity for increased accessible housing in Berkeley, with potential benefits to homeowners and future residents.

SUMMARY

The City of Berkeley is poised to see an expansion in the number and use of Accessory Dwelling Units (hereinafter ADUs) in the coming years. We also have a vibrant disability community in need of accessible housing and an aging population that will result in yet more Berkeley residents with disabilities needing accessible housing. Finally, the State has passed new laws which requires our City to update our ADU ordinances. Because of their design – for example, many are converted garages – ADUs represent a valuable opportunity to construct more accessible and “visitable” housing. Therefore, as we revise our ADU ordinances, the Commission on Disability recommends that the City Council and other relevant City entities emphasize accessibility for any newly constructed or renovated units. The Commission requests that the City Council and Staff contact relevant disability stakeholders, including holding community meetings as needed, to gather input and develop the most inclusive ADU ordinances possible.

FISCAL IMPACTS OF RECOMMENDATION

Staff time.

CURRENT SITUATION AND ITS EFFECTS

There have been changes in the state laws for ADUs which require the City of Berkeley to review and amend Berkeley’s ADU ordinance. The creation of additional ADUs provides an opportunity for more housing, and in many cases the housing that is created could potentially be accessible or at least “visitable” for persons with disabilities. Units



that are accessible or visitable for those with disabilities are also beneficial to an aging population and intergenerational living.

One reason the Commission on Disability is particularly interested in the ADU issue is that design decisions in the initial creation or plan of a unit are more cost effective, and that many individuals or builders planning to create or convert an existing structure to an ADU may not consider simple design choices that will make their units accessible or inaccessible. These units that used to be called “in-law” or “granny” units can sometimes be designed for better access, such as including a level entrance (or ramp thereto), wider door, and a bathroom that allows a wheelchair. There may be other design modifications for inclusion of other disabilities, and modifications for safety in aging.

We are not currently aware of other municipalities with ADU accessibility/visitability ordinances.

It is in this context that on July 25, 2018 the Commission on Disability membership voted to redraft this previously authored but not submitted item and submit it. It was Moved by Walsh, Seconded by Singer, with Ghenis, Leeder and Weiss voting yes, Uphadhyay was absent and Schwartz was present but had filed a LOA, unrevoked, and so her yes vote is not counted.

#### BACKGROUND

The city of Berkeley is widely recognized as the birthplace of the modern “independent living” disability rights movement, which led to many people with disabilities living outside institutions and with agency over their own lives. Safe, healthy, accessible housing represents a cornerstone of disability integration and independence, and should be supported by our City. This includes construction and renovation of homes, apartments and other residential units in ways that allow for accessible entrances, pathways, common spaces, bedrooms and restrooms. Berkeley’s ongoing shortage of fully accessible housing stresses our existing residents with disabilities, placing a price premium on accessible owned and rental units for a community already experiencing economic inequities; further, the aging of Berkeley’s population will lead to a greater number of residents with disabilities and a related need for expanded accessible housing stock.

According to a 2017 policy note from the AARP Public Policy Institute,

“In less than 15 years, one in five Americans will be age 50 and older. Our rapidly aging population will have a vast impact on our communities and how well suited they are to meet our range of needs at every life stage. Older adults want to remain in their homes and communities as they age. However the risk of developing health issues can increase with age and our homes must be able to support family members that might develop a disability.

Right now, many homes across the country contain physical barriers that keep people isolated: difficult to move from room or room, have walkways and hallways

too narrow to accommodate a wheelchair or lack features that allow people to bathe without significant help. Therefore it's imperative that we find and implement solutions to make homes safer and easier to navigate, especially for people with limited mobility."<sup>1</sup>

Increasing the number of accessible units benefits all Berkeley residents and potential visitors: residents without disabilities may acquire temporary or permanent disabilities at any time, so living in a universally-accessible unit or having many options for new housing is valuable; temporary visitors (i.e. visiting family members) with disabilities also have a right to accessibility across our City; and any residents or visitors with disabilities may have better social engagement if they can visit friends' or colleagues' accessible homes.

As the City revises its policies around ADUs, the Commission on Disability recommends that the City Council take actions to emphasize universal access in new construction and renovated units. ADUs represent a new opportunity to expand accessible housing options – whether permanent or temporary – in Berkeley. For example, many units are converted garages, which already rest at ground level and will be easy to construct without adding access barriers such as stairs. Given the costs and timelines of construction and renovation, it also benefits all parties (the unit's owner, any builder/renovator, and future residents/visitors) to prioritize accessibility as early and often as possible.

The importance of accessibility in any construction or remodels has been noted in multiple venues by a range of disability and construction experts. "When someone builds a home, they're not just building it for themselves — that home's going to be around for 100 years," Concrete Change founder Eleanor Smith<sup>2</sup> told The New York Times in 2002. "These things hurt nobody — and they help a lot of other people."<sup>3</sup>

#### ENVIRONMENTAL SUSTAINABILITY

Given that each round of construction or remodeling results in some environmental impact (sourcing construction materials, operating equipment, etc.), it is more sustainable to include visitability or accessible features in the first round of building or remodeling an ADU. Projects that pre-plan for individuals with disabilities and the aging of the population are more likely to last longer without modifications and related environmental impacts. Meanwhile, there is a negligible or non-existent difference in environmental footprint between constructing an accessible unit compared to one that does not provide access.

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<sup>1</sup> <https://bit.ly/2LG1VJW>

<sup>2</sup> <https://bit.ly/2LtDvnR>

<sup>3</sup> <https://nyti.ms/2AesvFH>

#### RATIONALE FOR RECOMMENDATION

The conversion of garage to ADU is an example where an existing structure has features that make it potentially very accessible to those with mobility impairment, and choices about door size and layout can make a difference in the future potential uses of the unit. The Commission understands that not every ADU can be accessible to mobility impairments, and that some types of units may not significantly be made more accessible.

In units that are potentially mobility accessible, such as an existing level-in structure, one way to incentivize accessibility may be to provide some type of benefit to homeowners who build to an accessible standard, for example allowing some extra square feet if it is for an accessible bathroom. There are likely other ways to build accessibly, and likely other incentives, and these could be further considered.

The Commission on Disability recommends that the ADU ordinance strive for “universal access” wherever possible, but at least address visitability in any newly constructed or remodeled ADUs. According to the National Council on Independent Living’s “Visitability” website<sup>4</sup>,

**“A house is visitable when it meets three basic requirements:**

- one zero-step entrance.
- doors with 32 inches of clear passage space.
- one bathroom on the main floor you can get into in a wheelchair.”

#### ALTERNATIVE ACTIONS CONSIDERED

On the January 24, 2017 City Council agenda, the Commission on Disability recommended including a section on each council submission template titled “Impact on Accessibility for Persons with Disabilities and Others.”<sup>5</sup> The idea was that including a consideration of accessibility for each item as it was submitted might be an opportunity for earlier inclusion of discussion of access. This likely would have brought up considerations of access in the development of ADU ordinances – however, we believe this particular item warrants special focus and direction on the part of the Council.

The Commission on Disability was not asked to participate in the ADU ordinance amendment process that began in 2017. On discovering the ongoing process, the CoD did submit the suggestions contained herein, but it was too late. These suggestions are also contained in a letter of support included in the agenda packet for Councilperson Hahn’s Item requesting the ADU ordinance amendment process be continued to consider Universal Design and 6 other areas of importance not addressed in the recently concluded amendment process.

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<sup>4</sup> <https://bit.ly/2mRQ9hK>

<sup>5</sup> <https://bit.ly/2A14Kfa>

Consideration of Accessibility in Accessory Dwelling Units

CITY MANAGER

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

CONTACT PERSON

Ella Callow, Disability Services Specialist, Public Works, 1-510-981-6418

Attachments:

1: Resolution

**Page 6 of 6**

RESOLUTION NO. -N.S.

EMPHASIZE ACCESSIBILITY IN ALTERNATIVE DWELLING UNITS (ADUS)

WHEREAS, the City of Berkeley is revising regulations and guidance regarding the construction of ADUs; and

WHEREAS, the residents of Berkeley have a strong history of advocating for disability rights, including physical access to temporary and permanent housing; and

WHEREAS, there is already an existing population of Berkeley residents with disabilities, as well as occasional visitors with disabilities, requiring accessible permanent and temporary housing; and

WHEREAS, the number of Berkeley residents with disabilities will continue to increase as our population ages, requiring yet more accessible housing and visitable spaces; and

WHEREAS, ADUs under construction or renovation provide a prime opportunity to develop and provide accessible housing and visitable spaces.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that City ordinances addressing the construction and renovation of ADUs shall emphasize physical access for people with disabilities. The Council requests relevant staff to address access features including, but not limited to, barrier-free entryways, 32-inch-wide doorways, and wheelchair-accessible restrooms in guidance for construction and renovation of ADUs moving forward. Development of ordinances may include input from experts on accessibility and members of the Berkeley disability community.





# SHEFFIELD PRESCHOOL PROGRAM



December 3, 2019

To Whom It May Concern:

I have lived next door to the Rose Garden Inn since 1987. I have been sad to see it fall apart in the past fifteen years. There is a lot of work to be done to just bring the property up to its initial glory, let alone create it into a destination boutique hotel. I love his plan to call the property The Marshall in honor of the original owners. (I have run a preschool program in my home in Berkeley for children 3—5 years old with a family daycare license since 1983.)

I am very hopeful that Amish Patel will improve and save the two main buildings of the Rose Garden Inn, and improve the grounds overall. He has promised to replace the failing fence between our properties and remove a dying pine tree that drops debris all over my roof and property. I am looking forward to the remodel that will include removing the rear stairs that overlook my backyard.

The entire neighborhood will welcome his plan of valet parking, including his guests whose cars have been broken into over the past year. Lately, car break-ins seem to be on the rise at the top of Stuart Street, and valet parking will remove the thieves' incentive.

Sincerely,

***M. June Sheffield***

M. June Sheffield  
Director





**Pearson, Alene**

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**From:** Pearson, Alene  
**Sent:** Wednesday, January 22, 2020 11:16 AM  
**To:** Pearson, Alene  
**Cc:** Lapira, Katrina  
**Subject:** APA Annual Planning Commissioners Conference

Dear Commissioners,

I am sending this email to let you now that on February 1, 2020 APA will be holding their Annual Planning Commissioners Conference at Sonoma State University (see the link below). In the past, Planning Commissioners have asked for training and professional development opportunities to inform their experience on the Commission. This conference, which will focus on wildfires, housing legislation, and GHG reduction in the context of land use planning, could be really interesting. If you are available and would like to attend, please let me know and I can assist with registration.

Best,  
Alene

<https://norcalapa.org/event/sonoma-state-university-36th-annual-planning-commissioners-conference/>

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**Alene Pearson, Principal Planner**

Land Use Planning Division

City of Berkeley

510-981-7489

[apearson@cityofberkeley.info](mailto:apearson@cityofberkeley.info)



**Lapira, Katrina**

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**From:** McDonough, Melissa  
**Sent:** Friday, January 24, 2020 4:25 PM  
**Subject:** Strategic Plan Info Session and Quarterly Report

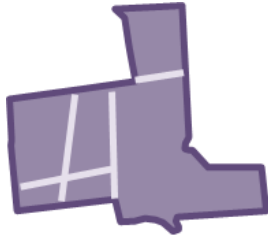
Hi Commission Secretaries!

Thank you so much for helping me get the word out to Commissioners about the Strategic Plan Info Session. We had very good turnout and attendees seemed interested in the Strategic Plan and our progress on various projects. For any Commissioners that missed the event but are curious, there is an [off agenda memo](#) available which includes slides from the presentation. Also, the City just released the [Strategic Plan Quarterly Report](#)—please do share it with your Commissioners.

Best regards,

Melissa K. M<sup>c</sup>Donough, MPP  
Senior Management Analyst  
City of Berkeley, City Manager's Office  
pronouns: she/her  
510.981.7402 desk, 510.833.3588 mobile  
[www.cityofberkeley.info](http://www.cityofberkeley.info)  
[mmcdonough@cityofberkeley.info](mailto:mmcdonough@cityofberkeley.info)





## **SOUTHSIDE NEIGHBORHOOD CONSORTIUM**

January 27, 2020

Members, City of Berkeley Planning Commission  
Alene Pearson, Secretary  
Land Use Planning Division  
City of Berkeley  
1947 Center Street  
Berkeley, CA 94704

Re: Comments on Southside Proposed Zoning Districts

Dear Members of the Planning Commission:

The Southside Neighborhood Consortium (SNC) is a consortium of neighborhood associations and speaks on behalf of over 1,000 of its constituent associations' members who live in the areas south and southeast of UC Berkeley. SNC has reviewed the Southside EIR Project Description dated December 17, 2019 ("Project Description") prepared by the City of Berkeley Planning and Development staff and we offer our comments for your consideration. The first two comments address the proposed EIR Project Description and an alternative proposed by SNC. The remainder of the comments address development standards and scope of EIR for which City staff sought Planning Commission input.

**Comment 1.0: The proposed EIR Project Description is a traditional up-zoning with no offsetting community benefits to Southside and other Berkeley residents.**

SNC believes that the proposed Southside EIR Project Description represents a traditional, 'vanilla' up-zoning approach that will not necessarily result in the outcome desired by the City Council, namely development of more housing close to the UC Campus as quickly as possible. An up-zoning approach as proposed by staff has several limitations that would work against the production of additional housing. First, all parcels would gain additional development rights whether or not the current property owner has any intent to develop or redevelop their property. In other words, a new entitlement flows to an owner who may have no intention of redeveloping their property and decides to continue to hold their property for the long term. Second, a blanket up-zoning of all properties increases the value of all properties and would raise the cost for a developer to purchase a site or assemble parcels for a housing

Comments on Proposed Southside EIR December 17, 2020 Staff Report

development because a seller can price their property with the certitude of the additional entitlement granted through the up-zoning. Third, a general up-zoning grants additional development entitlements at no cost to property owners and developers and deprives the City of obtaining community benefits in exchange for an additional entitlement that has potentially great value. For every additional unit of housing granted to developer, the City would likely create \$50,000 to \$100,000 in incremental value, depending on market conditions. The value of an additional thousand additional units, for example, would range from \$50 to \$100 million. The SNC believes that it is reasonable to ask to share in this value increment in the form of community benefits.

**Comment 2.0: SNC proposes an Alternative EIR Project Description that will allocate new entitlement to property owners ready to build and give City an opportunity to share in the value increase.**

SNC believes a more effective approach to encouraging housing production would be an EIR Project Description comprised of the following elements:

- Retain current zoning but modify development standards to set baseline density at the midpoint of the existing ranges set forth in the Land Use Element of the General Plan.
- Approve a pool of units that represents a reasonable housing production goal, say 1,000 units, that would be available for allocation within an overlay district.
- Define an overlay district that encompasses properties closest to campus (see attached SNC Alternative Project Description Map).
- Formulate a priority list of desired community benefits. For example:
  - Additional affordable housing units above the City's current requirement
  - Transportation improvements
  - Below market rent ground floor commercial space for low-income entrepreneurs
- Define an allocation process and standards for granting units from the pool. Criteria could include for example: proximity to UCB, superior design/sustainability features, protection of historic structures, and community benefits offered.

This Alternative EIR Project Description is superior to the traditional up-zoning approach because:

- Units are allocated to owners who are ready to build.
- Rewards new entitlement in exchange for community benefits.

This approach has been undertaken by many cities in the Bay Area.

**Comment 3.0: The following are responses to Staff solicitation of input on the December 17, 2019 Project Description and Southside EIR:**

**General**

1. The option for discretion should not be removed. The City needs to reconceptualize how the density can be increased on Southside. We'd want to see objective development standards that include

Comments on Proposed Southside EIR December 17, 2020 Staff Report

setbacks and stepping down of mass. Also, we would propose that the city decide on the number of units desired, and have an application process for those units, rather than a general upzoning. This prevents property owners from having a windfall, with no benefits to the city. With an application process the City could negotiate benefits with the developer.

There is no mention in the document about historic resources, including historic view corridors, and how they are to be treated. We would propose that there be strict design guidelines for developments adjacent to historic resources.

**Building Heights**

3. Yes, but only with appropriate setbacks and analysis of sunlight/shade impacts. 12 stories would be higher than any building currently on the campus.
4. Additional 12 story buildings should only be considered along Bancroft Avenue.

**Building Footprint**

5. Setbacks and lot coverage should never be modified with only an AUP, particularly given that the increase in value from those entitlements should be subject to negotiation with the City.
6. Very little of the existing R-3 in Berkeley is 'urban,' and the density standards for R-3 in the General plan reflect that. The lot coverage standards for R-3 are what give Berkeley its unique 'garden city' character. Consequently, the lot coverage should not be changed.

**Parking**

7. Parking rules on the Southside should be similar to SOMA in SF: all truck loading, delivery and passenger pickup should take place on site, rather than on the city streets. SOMA has been undergoing a transition to more intense development as is proposed for Southside, and San Francisco has imposed this requirement there.

**Ground Floor Residential Use**

8. Ground floor residential should be the rule where there is currently no retail, e.g. Channing, Durant except the two blocks on either side of Telegraph, Haste and Dwight and side streets.

**Zoning District Locations**

9. The zoning district changes proposed are not appropriate for two reasons. First, the area west of Dana contains numerous historic resources, and needs to be carefully considered, rather than just up-zoned. The EIR scope should include an analysis of views and aesthetics on historic resources and to ensure Section 106 compliance through notification and consultation with the State Historic Preservation Office. Second, as we stated above, the City should not up-zone, but instead have

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application process for new units. SNC proposes a narrower geographic area for change that focuses on sites closer to campus.

**10.** As we stated in #9, the area west of Telegraph should not be up-zoned without further study of historic resources and an allocation process for constructing new units.

Thank you for the Commission's consideration of these comments.

Sincerely,

**Southside Neighborhood Consortium:**

Joan Barnett, President, Dwight-Hillside Neighborhood Association  
George Beier, President, Willard Neighborhood Association  
Phil Bokovoy, President, Save Berkeley's Neighborhoods  
Lesley Emmington, President, Make UC a Good Neighbor  
Mike Kelly, President, Panoramic Hill Association  
Dean Metzger, Vice- President, Claremont-Elmwood Neighborhood Association  
Gianna Ranuzzi, President, Le Conte Neighborhood Association  
Andrew Johnson, Bateman Neighborhood Association  
Dean Metzger, President, Berkeley Neighborhoods Council  
David Shiver, Stuart Street/Willard



# SNC Proposed Alternative Overlay District





**Pearson, Alene**

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**From:** G. Michael Yovino-Young <myy@yovino.com>  
**Sent:** Tuesday, January 28, 2020 2:34 PM  
**To:** Pearson, Alene  
**Subject:** FW: 2740-44 Telegraph & 2348 Ward Street

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**From:** G. Michael Yovino-Young  
**Sent:** Tuesday, January 28, 2020 2:32 PM

**Subject:** 2740-44 Telegraph & 2348 Ward Street

Alene Pearson, PC Secretary, City of Berkeley

My wife and I are the owners of 2716 Telegraph Avenue, 1.5 blocks from the referenced properties. The rezoning of portions of these properties long in commercial/residential uses is long overdue and conforming the zoning as C-1 will be consistent with the actual land uses that are next to the 2348 Ward Street medical building. We approve the change in zoning.

Michael Yovino-Young  
2716 Telegraph Avenue  
Berkeley, CA 94705  
Email: [myy@yovino.com](mailto:myy@yovino.com)



**Lapira, Katrina**

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**From:** Harvey Smith [mailto:peoplesparkhxdist@gmail.com]  
**Sent:** Tuesday, January 28, 2020 4:06 PM  
**To:** Pearson, Alene <apearson@cityofberkeley.info>  
**Cc:** Robinson, Rigel <RRobinson@cityofberkeley.info>  
**Subject:** Proposed Southside Zoning Districts

January 28, 2020

To: City of Berkeley

Planning Commission,

Alene Pearson, Land Use Planning

sent via email

From: People's Park Historic District Advocacy Group

Harvey Smith, co-chair

Re: Proposed Southside Zoning Districts

Dear Members of the Planning Commission:

It has recently come to our attention that discussion is underway regarding newly proposed Southside Zoning Districts for a potential Southside EIR Project Description, prepared by the City of Berkeley Planning and Development Staff. In response, the recently formed People's Park Historic District Advocacy Group urges the Planning Commission to reconsider any ventures that might up-zone the People's Park block for future housing development. People's Park is not only a designated City of Berkeley Landmark and Public Open Space, but it is a site distinguished by exceptional surrounds and public view corridors of designated City, State, and National Landmarks.

It would seem hasty and, perhaps, detrimental to further up-zone the Southside at this time. It is relevant that the area has recently expanded with new population numbers and is, in fact, currently undergoing a period of remarkable new housing construction. Thus, in light of an already pending increased density, it would seem most relevant that the Planning Commission view People's Park as the valuable Public Open Space that it is.

It may be that the Planning Commission is not fully aware of "Measure L", adopted in 1986 by the citizens of Berkeley. In consideration of the Southside both today and in the future, Measure L guides the City toward a policy of maintenance and improvement of People's Park. Please note the guiding language:

ORDINANCE No. 5785-N.S.

THE BERKELEY PUBLIC PARKS AND OPEN SPACE PRESERVATION ORDINANCE: PROPOSAL FOR AN ORDINANCE TO REQUIRE THE BERKELEY CITY COUNCIL TO PRESERVE AND MAINTAIN THE PUBLIC PARKS AND OPEN SPACE WHICH EXIST IN BERKELEY, AS WELL AS TO ACQUIRE AND MAINTAIN PUBLIC PARKS AND OPEN SPACE IN THE CENSUS TRACTS AND NEIGHBORHOODS OF BERKELEY HAVING LESS THAN THE MINIMUM AMOUNT OF OPEN SPACE RELATIVE TO POPULATION (2 ACRES PER 1,000) IDENTIFIED IN THE BERKELEY MASTER PLAN OF 1977; AND TO REQUIRE THE CITY TO SUBMIT TO A POPULAR VOTE ALL PROPOSALS TO WITHDRAW FROM RECREATIONAL USE PUBLIC PARKS OR PUBLIC OPEN SPACE.

Indeed, while People's Park has suffered from many years of little or no positive "park" planning, as well as from a multitude of conditions reflecting the various social problems in the Southside, as well as in Berkeley and in California, such neglect should not prevent wholesome planning for the future of the area's "town and gown" community. Again, we urge the Planning Commission to not up-zone the historic People's Park block, but rather to engage in a vision entitled by ORDINANCE No. 5785-N.S., Measure L, providing for the planning of much needed recreational use and/or public open space in the Southside.

Sincerely,

Harvey Smith

Co-chair

cc: Rigel Robinson

Jan. 29<sup>th</sup>, 2020

Dear Berkeley Planning Commission Members,

It has come to my attention on Feb 5<sup>th</sup> you will discuss potential recommendations for shaping Berkeley's new ADU ordinance. Although I am a member of the East Bay ADU Task Force we as a body have not yet addressed all the ways various cities are approaching the task of rewriting their ADU ordinances. But I wish to offer some insights what I believe are important considerations going forward.

All of us are aware we are in a housing crisis with social and economic roots many decades in the making that are revealing themselves at alarming speed with an explosion of our homeless population. We cannot and MUST NOT continue business as usual. Our State leadership has sent us this message loud and clear with a wave of housing legislation unparalleled in our lifetime. Their demand for immediate change of how we imagine our neighborhoods and affordability issues will continue.

Berkeley is in the urban core of the Greater Bay Area. Yet our City is still defined by a 100 year old zoning matrix more appropriate to Antioch, Hercules or Sonoma when we were once on the fringes of San Francisco. Now 100 years later the social zoning barriers erected as a form of sophisticated classism & racism are what we continue to promote.

If we do not navigate a path forward with enough speed to alleviate affordable housing options, bills like SB50 looming on the immediate horizon will. One of the most gentle paths to increase urban density is to embrace ADU options, promote their construction and learn from Portland, Seattle, Vancouver, Canada & Austin, Texas (*all about a decade ahead of us*) that this is a far more acceptable path than 5-8 story condos & apts.

What are some of the lessons learned from these pioneer cities? ADUs diversify our neighborhoods, slow down the forces of gentrification, allow our elderly to age in place, generate additional income, create more opportunities for multi generational compounds and create an average rent 20-30% lower than market rate high rise apts. we see in downtown Berkeley. Surprisingly their impact on parking & changing the character of a neighborhood are minimal. The existing infrastructure of our utilities does not require an extensive & expensive upgrade. The majority of their energy needs can be achieved through solar.

Within the new legislation the State has offered us unusual flexibility to motivate cities to build as many ADUs as possible.

The State Legislation on ADUs states:

**65852.2.**

*(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.*

This gives us the opportunity to ask “**What CAN we do** to take advantage of this opportunity vs the standard Berkeley mindset of *what must we do to be in compliance?*” The cities mentioned above are leaders in the ADU movement to increase affordable neighborhood friendly housing because they have asked “What do our homeowners and builders need to encourage ADU construction?!” Allow me to suggest some ways to go beyond the legislation that is pro active vs reactive.

Additional ‘BY RIGHT’ considerations:

- 1- Provide enough maximum height to build two stories (between 19-21 ft like Portland or Seattle) so more open space may be available.
- 2- If the primary dwelling is smaller than 850 sq ft, allow this dwelling to be converted into the ADU provided there is enough space to build a similar or larger detached dwelling behind, or one underneath or above.
- 3- If a house can be lifted allow the ADU underneath to have the same foot print as the upper story.
- 4- Allow legal accessory structures & garages to also be converted into JADUs as well as internal JADUs in the main house within their existing footprint with the option to increase the footprint 150 sq ft for ingress/egress.
- 5- Allow for lot coverage’s to increase 10 -20% above existing limits for ADUs larger than 800 sq ft.

These measures among other creative ideas set a tone that insures State Leaders we can be proactive on our own to encourage integrated density growth, that we do not require additional legislative oversight. Because if our message is “We will do the bare minimum necessary” I can assure you more housing legislation will follow as this housing crisis is far from over.

Please ‘Cease the Day’ and move us forward in our thinking of what is possible.

Regards,

Rolf Bell  
East Bay ADU Task Force member  
Green Living Builders, LLC  
Berkeley resident  
rolf.bell12@gmail.com