



Vice Mayor Lori Droste

SUPPLEMENTAL AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: November 9, 2021

Item Number: 20

Item Description: “Objective Standards for Density, Design, And Shadows”
(Hahn, Arreguín, Wengraf, And Harrison)

Submitted by: Vice Mayor Droste (District 8), Councilmember Kesarwani
(District 1), Councilmember Taplin (District 2)

Presenting alternative approaches and direction for developing and implementing objective design and development standards, with the goal of encouraging the creation of additional homes/affordable homes and dovetailing with the 6th Cycle 2023–2031 Housing Element Update and associated rezoning effort.



Vice Mayor Lori Droste

SUPPLEMENTAL AGENDA MATERIAL FOR SUPPLEMENTAL PACKET #2

ITEM #20 “OBJECTIVE STANDARDS FOR DENSITY, DESIGN, AND SHADOWS” (HAHN, ARREGUÍN, WENGRAF, AND HARRISON)

ACTION CALENDAR

November 9, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Vice Mayor Lori Droste, Councilmember Terry Taplin, and Councilmember Rashi Kesarwani

SUBJECT: Supplemental Agenda Material for Supplemental Packet #2 “Objective Standards for Density, Design, and Shadows”

RECOMMENDATION

Refer to the Planning Commission and the City Manager the following set of recommendations for consideration and possible incorporation into Zoning Code revisions pursuant to the 2023–2031 6th Cycle Housing Element Update:

- DENSITY: Adopt *minimum* units-per-acre density standards; but do NOT adopt *maximum* units-per-acre density standards.**

To demonstrate adequate capacity to meet RHNA targets, the City should adopt minimum units-per-acre density standards that are conservatively calibrated to reflect a realistic potential development capacity based on the allowable height and bulk of the associated zoning district and typical unit sizes. To avoid unnecessarily limiting the potential number of homes provided, avoid exclusionary zoning approaches, and ensure flexibility in unit types, the zoning code would not apply any maximum units-per-acre standards. (*See more detailed recommendations below.*)

2. SUNLIGHT/SHADOWS: Manage shadows exclusively through generalized height/bulk controls.

To reduce administrative burden, increase project certainty, and expand opportunities for small, local, and non-profit housing developers, eliminate requirements for project-level shadow studies (which require advanced modeling and/or potentially involve subjective judgements about impact severity) and instead control shadow impacts through pre-established objective controls on height, setbacks, stepbacks, and/or Floor Area Ratio (FAR). These standards would be designed to ensure no net loss in residential capacity, consistent with State law. *(See more detailed recommendations below.)*

3. DESIGN: Focus building form regulations on fostering a high-quality street-level experience for pedestrians.

To reduce administrative burden, encourage diverse architecture and innovative design, reduce costs, improve energy efficiency, and expedite creation of new homes, the zoning code should include limited and straightforward design standards focused on the convenience/quality of the pedestrian experience rather than more subjective aesthetic considerations. Design standards regarding positioning of pedestrian entrances, ground floor transparency, sidewalk landscaping/tree planting, and elimination/reduction of curb cuts could remain or be enhanced; meanwhile design standards regarding color, materials, and facade articulation would be liberalized or eliminated. *(See more detailed recommendations below.)*

Prior to the establishment of any of the above regulations, refer to the City Manager and Planning Commission to evaluate the potential implications for: racial and socioeconomic equity; city- and site-level housing capacity; provision of affordable housing units; project costs and feasibility; adequate protection of structures and open spaces from excess heat/direct sunlight in the face of climate change; and regulatory consistency with respect to shadows cast by things other than buildings.

The City Manager, Planning Commission, and any other commissions or participants are requested to consider these recommendations purely prospectively so as not to interfere with existing zoning and project approvals and so as to dovetail with development and implementation of any rezoning related to the 2023 Housing Element Update.

SUMMARY STATEMENT

Prior to the passage of State laws that streamlined the project approvals process, subjective and non-quantitative criteria in Berkeley's Zoning Code generated frequent conflicts, uncertainty, and/or back-and-forth delays in the approval of new homes. A non-exhaustive list of example projects includes:

- Berkeley Trader Joes¹
- 3000 Shattuck Project²
- 2701 Shattuck³
- 1310 Haskell Street (see timeline below)⁴
- 1315 Berryman⁵
- 2211 Harold Way⁶
- Parker Place⁷
- “Holy Hill” Senior Housing⁸
- Peerless Greens⁹
- 2902 Adeline¹⁰
- 2801 Adeline¹¹
- Gaia Building¹²
- 2004 University Ave (Former Touriel Building)¹³
- 3001 Telegraph Ave¹⁴
- Elmwood Hardware¹⁵
- Acheson Commons¹⁶

As the Planning Commission and City Council undertake rezoning efforts pursuant to the Housing Element Update that will conclude no later than January of 2023, these bodies will need to enact policies and zoning regulations that:

¹<https://www.sfgate.com/politics/article/BERKELEY-Neighbors-say-no-to-popular-market-2484977.php>

²<https://www.berkeleyside.org/2018/12/04/council-approves-south-berkeley-co-housing-units-after-zoning-board-denial>

³<https://www.berkeleyside.org/2019/03/18/berkeley-council-narrowly-overturns-zoning-board-approval-of-2701-shattuck>

⁴<https://www.berkeleyside.org/2017/09/08/long-legal-dispute-berkeley-approves-application-build-3-homes-haskell-street>

⁵<https://www.berkeleyside.org/2021/11/03/north-berkeley-house-berryman-landmarking-townhouses>

⁶<https://www.berkeleyside.org/2020/01/02/developer-suddenly-pulls-the-plug-on-18-story-harold-way-complex-in-berkeley>

⁷<https://www.berkeleyside.org/2012/01/18/parker-place-development-wins-council-approval>

⁸<https://www.berkeleyside.org/2017/01/13/controversial-plan-build-265-apartments-holy-hill-dies>

⁹<https://eastbayexpress.com/back-to-the-green-future-1/>

¹⁰<https://www.berkeleyside.org/2018/09/11/2902-adeline-housing-project-forges-ahead-after-south-berkeley-land-deal-lawsuit>

¹¹<https://www.berkeleyside.org/2020/02/14/housing-and-hotel-combo-among-new-buildings-proposed-in-south-berkeley>

¹²<https://www.sfgate.com/bayarea/article/A-Tale-of-7-Stories-in-Berkeley-Flak-over-3237608.php>

¹³<https://www.berkeleydailyplanet.com/issue/2002-06-05/article/12422>

¹⁴https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/3001_Telegraph.aspx

¹⁵<https://transbayblog.com/2007/09/15/berkeley-nimby-ordinance-holds-the-elmwood-district-hostage/>

¹⁶<https://www.berkeleyside.org/2018/08/23/construction-begins-on-downtown-berkeley-apartment-building-5-years-after-it-was-approved>

1. Ensure Berkeley's new zoning is capable of accommodating the housing capacities (at various income levels) assigned through the Regional Housing Allocation Needs (RHNA) process;
2. Maintain consistency with State laws already requiring the establishment of objective standards and prohibiting downzonings that would decrease any jurisdiction's aggregate capacity to provide new homes; and
3. Avoid replicating the deleterious effects of previous regulatory approaches with respect to the speed and volume of housing production.

To accomplish the above goals/requirements, the City must avoid piecemeal approaches and instead address upcoming zoning changes comprehensively, pursuant to the Housing Element Update, and with careful consideration for impacts relating to: overall housing capacity, affordable housing, equity, sustainability, project feasibility, remediation of historically racist zoning/planning practices, administrative costs and burden, and compliance with state law.

STATE REGULATORY SETTING

Housing Accountability Act

Effective January 2018, AB 678, SB 167, and AB 1515 strengthened the Housing Accountability Act (HAA) by restricting the ability of jurisdictions to deny or reduce the density of proposed housing projects, including mixed-use projects, regardless of affordability levels. These laws also require local jurisdictions to review housing development proposals more quickly and encourage local governments to give developers more clarity and feedback in the review and approval process. With these changes, many findings previously used by local jurisdictions to deny housing projects are no longer considered valid grounds for denial, creating a review process that is more conducive to homebuilding.

AB 3194 (2018) expanded HAA guarantees to certain proposed housing projects that do not comply with the objective standards of applicable zoning, provided that the project complies with the objective standards specified for that land use in the General Plan and that the objective standards in the zoning are inconsistent with those in the General Plan.

Given these and other changes to State law, local governments are now usually required to approve residential or mixed-use projects that comply with all objective standards in the applicable zoning (or General Plan objective standards, when the zoning is not consistent with them). Local governments can only deny such projects under limited circumstances, such as when the preponderance of evidence demonstrates a project would have a specific, adverse health or safety impact. For affordable housing projects, HAA protections are even stronger, with cities generally being required to approve affordable housing projects, even when they don't conform to objective zoning standards, except under a limited set of circumstances.

Senate Bill 330¹⁷

[SB 330](#), also referred to as the Housing Crisis Act of 2019, is effective until January 1, 2030 (as

¹⁷ Text adapted and expanded from City of Pasadena INFORMATION ITEM – UPDATE ON RECENT HOUSING LEGISLATION, accessed on November 3, 2021.

extended by SB 8 in 2021) and one of its major provisions limits local jurisdictions' ability to downzone properties.

While SB 330 is in effect, affected cities (including Berkeley) cannot change their general plans, specific plans, zoning ordinances, or subdivision ordinances to lessen the intensity of housing below that in effect on January 1, 2018 unless that city concurrently changes other standards to ensure that there is no net loss in residential capacity. This downzoning prohibition includes changes in development standards, such as reductions in height, density, or floor area ratios that would lessen the intensity of housing. Additionally, no moratorium may be imposed on housing development, no new subjective design standards may be adopted or enforced, and no new residential development caps may be adopted.

SB 330 therefore prohibits the City of Berkeley from making any changes to its zoning or development standards that would have the effect of reducing residential intensity without commensurate increases elsewhere. This prohibition includes but would not be limited to reductions in potential buildable floor area from the imposition of standards relating to shadows/daylight planes; maximum dwelling units per acre; facade articulation; and/or other controls on bulk such as height limits, minimum setbacks/stepbacks, and/or FAR.

*Assembly Bill 2292 (2002)*¹⁸

[AB 2292](#) prohibits a city, county, or a city and county, by administrative, quasi-judicial, or legislative action, from reducing, requiring, or permitting the reduction of the residential density for any parcel to a lower residential density that is below the density that was utilized by the Department of Housing and Community Development in determining compliance with housing element law, unless the city, county, or city and county makes written findings supported by substantial evidence that the reduction is consistent with the adopted general plan, including the housing element, and the jurisdiction's share of the regional housing need.

PREVIOUS COUNCIL ACTION TIMELINE

April 2015 — A zoning compliant project at 1310 Haskell Street submitted for review by the Zoning Adjustment Board.

March 2016 — City of Berkeley Planning staff and the Zoning Adjustment Board approved the project which was then appealed to the City Council.

July 2016 — A majority of the City Council [overturned the ZAB decision](#) and rejected the use permit. Subsequently, the San Francisco Bay Area Renter's Federation (SFBARF) et. al filed suit against the City of Berkeley for violating the Housing Accountability Act because the proposed project was denied even though it did not have "specific adverse impact on public health or safety."

https://www.cityofpasadena.net/commissions/wp-content/uploads/sites/31/2020-01-08-Housing-Legislation-Update_PC-Memo.pdf

¹⁸ Text adapted from Legislative Counsel's Digest for Assembly Bill 2292

October 2016 — Alameda Superior Court orders the City to rescind the 2016 decision.

February 2017 — The City agreed to settle the suit and rescind the 2016 decision and hold a new public hearing.

February 2017 — At the second public hearing, a majority of Council [again rejected](#) 1310 Haskell Street arguing that the [demolition permit was not covered](#) by the Housing Accountability Act.

June 2017 — City Attorney Zach Cowan, in response to a request from the Agenda Committee, [recommended a three pronged approach](#) to address the Housing Accountability Act's impact on Berkeley's approvals process. In the City Attorney's report, Cowan recommended three approaches Berkeley could undertake to avoid conflict with the Housing Accountability Act:

- "Amend the General Plan and Zoning Ordinance to adopt numerical density and/or building intensity standards that can be applied on a parcel-by-parcel basis in an easy and predictable manner. These would constitute reliable and understandable 'objective general plan and zoning standards' that would establish known maximum densities. This could be done across the board or for specified districts."
- "Devise and adopt 'objective, identified written public health or safety standards' applicable to new housing development projects."
- "Adopt 'design review standards that are part of 'applicable, objective general plan and zoning standards and criteria.'"

July 2017 — a majority of Berkeley City Council [adopted](#) the aforementioned approaches and added [one more](#) to preserve local land use discretion:

- "Quantify and set standards for views, shadows, and other impacts that often underlie detriment findings."

July 2017 — Alameda County Superior Court Judge Kimberly Crowell [rejected Council's second attempt](#) to deny a use permit for 1310 Haskell and ordered approval of the project.

September 2017 — Berkeley City Council approved the projects and paid associated legal fees.

June 2018 — Additional legislation was introduced by Councilmember Hahn to [define objective standards for views](#) but was shelved while the Joint Subcommittee on State Housing Laws discussed objective standards for density, design, and shadows.

October 2019 – The Housing Crisis Act of 2019 (SB 330) passed by the State Legislature and signed into law (see above).

July 2020 — the Joint Subcommittee on the Implementation of State Housing Laws recommended a path to refer to the Design Review Committee and Planning Commission to consider after convening eleven times. These recommendations are summarized in the [staff report](#).

September 2021 – Councilmember Hahn, Mayor Arreguín, Councilmember Wengraf, and Councilmember Harrison introduce amendments to the proposed [Objective Standards for Density, Design and Shadows](#).

BACKGROUND

Berkeley has a history of delaying or denying permits for code-compliant residential and mixed-use projects based on subjective judgements regarding what constitutes “excessive” impacts. In some cases, repeated requests for project revisions have led to project cancellation (See in list above: 2211 Harold Way, 2701 Shattuck, Peerless Greens, Holy Hill) and—since the implementation of new State laws to streamline project approvals—costly litigation (see Haskell Street timeline, as well as 1900 Fourth St¹⁹) The loss of these potential projects has cost the city hundreds of housing units and millions of dollars for affordable housing.²⁰

State laws designed to reduce time involved in permitting processes and increase certainty for applicants/developers by mandating ministerial permitting for projects that conform with base standards are expediting the creation of desperately needed housing and affordable housing. The fact that Berkeley is approving additional housing at all income levels in less time is a testament, in part, to the effectiveness of these new State statutes and argues against the creation of new local requirements that could undermine this streamlining success.²¹

Removing subjective judgements from project approvals has also reduced the administrative burden associated with needing to provide qualitative justifications for such judgements. On the other hand, wholesale replacement of these subjective judgements with a panoply of even more granular objective standards would restore or perhaps even expand that administrative burden. The explicitly stated intent of these new State laws was to expedite and increase the production of housing, not to merely transplant the entire existing burden of the housing approvals process from a subjective framework to an objective framework.²²²³ Reimposing prior subjective

¹⁹<https://www.berkeleyside.org/2021/07/29/development-spengers-parking-lot-can-proceed-ohlone-shellmound-ruling>

²⁰<https://www.berkeleyside.org/2020/01/02/developer-suddenly-pulls-the-plug-on-18-story-harold-way-complex-in-berkeley>

²¹<https://www.berkeleyside.org/2019/01/17/berkeley-approves-two-affordable-housing-projects-in-record-time-under-new-state-law-sb-35>

²² From SB 330: "(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following: (1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b). (2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement."

From SB 35:

²³ From SB 167: "(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California. (2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing. (3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced

requirements would have the effect of subverting this improved status quo by introducing new elements in the form of exacting objective requirements that did not previously exist, and which tend to discourage proposals for new homes and reduce unit capacities for projects that are proposed—as are seen on the north side of University Avenue.

Even without such highly prescriptive standards, the zoning and municipal code would not be silent on impacts and would continue to include numerous tools to limit and mitigate them. For example: shadow impacts would continue to be limited by heights, setbacks, and step backs; noise impacts would continue to be mitigated by the noise ordinance and limits on acceptable uses; impacts to historic/cultural resources would continue to be mitigated by the Landmarks Preservation Ordinance, and so forth.

Because of Berkeley's previous incorporation of subjective judgement into project approvals, the base standards included in the zoning code were incapable of functioning as a measuring stick for what constituted acceptable impacts. Projects that met base numerical standards with respect to height, bulk, lot coverage, etc. were routinely delayed or even denied based upon individual (and at times poorly evidenced) claims that a project would result in "unacceptable" impacts.

This said, base standards are still—and sometimes appropriately—capable of acting as a bar to project approval. Exceptions like density bonuses, development incentives, or 100% affordable projects notwithstanding, projects that, for example, exceed a height limit or fail to provide adequate open space are rightly denied. This is the very purpose of including building standards in the zoning code. The occasional granting of a variance does not eliminate or diminish the overall ability of building standards to preclude a project that violates them.

At least prior to the implementation of recent State housing laws, most (if not very nearly all) housing and mixed-use projects in Berkeley have undergone at least some degree of modification as a result of staff, design, and/or zoning review. Prominent examples include the Trader Joe's project; the original Harold Way project (now defunct); 2701 Shattuck²⁴ (also likely defunct); and the Downtown hotel project, among many others. The extensive back and forth process that characterized these projects is precisely what State leaders are seeking to prevent through approvals streamlining and prohibitions on subjective judgements.

Despite this shift away from subjective judgements, the City would still maintain its ability to grant exceptions to requirements for qualifying or otherwise exceptionally meritorious projects. Nothing in State law would preclude the City from continuing to grant variances; nor does State

mobility, urban sprawl, excessive commuting, and air quality deterioration. (4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects. (b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d)."

²⁴<https://www.berkeleyside.org/2013/08/20/berkeley-neighbors-fight-micro-unit-proposal-on-shattuck>

law create any increased latitude for the granting of variances for cities that adopt more prescriptive standards. Put plainly, more detailed and restrictive standards decrease project flexibility.

In areas where Berkeley has so far implemented strict objective design standards of the sort contemplated, housing production has tended to suffer and the resulting structures have not necessarily exhibited what might be regarded as exceptional architectural merit. A primary example of this is the cited University Avenue corridor, where housing production has tended to lag relative to other areas with recent specific plan efforts, such as Downtown and Southside, which are both characterized by design guidelines rather than strict aesthetic requirements.

To give a specific architectural example, the new Best Western hotel on the northwest corner of University Avenue and Sacramento street presents an arguably squat and plain appearance on a major corner defined by two wide and highly traveled roadways, and in close proximity to the North Berkeley BART station, as well as numerous AC Transit bus lines. Alternatively, the recently completed Addison apartments in the Downtown, while not especially distinctive, anchors its block with a stronger, more contemporary presence. Counterintuitively, the Best Western was, in certain respects, subject to stricter explicit design/massing requirements than the Addison.^{25,26} Although it is arguable that evaluations of architectural merit such as these are a matter of taste, this only argues further against attempts to codify such considerations—potentially locking future generations of buildings into outmoded trends. Moreover, some design standards—such as requirements for facade articulation—tend to increase building costs, while also having negative consequences (such as decreased energy efficiency in the case of the former).

Rather than focus resources and staff time on the development and application of increasingly minute aesthetic design standards, the City might benefit the public realm more greatly by building upon the highly successful [Downtown Berkeley Design Guidelines](#) by making this a living document that continually incorporates new design principles, best practices, and recommendations for including high-quality design at low cost. The City could also explore creating additional district-based design guidelines modelled on those for the Downtown, while still allowing and even encouraging architectural exploration and innovation of the sort that historically characterized Berkeley's built environment until the imposition of stricter zoning in the mid 20th century.

Over the past 50 years, Berkeley has experienced dramatic increases in housing costs and homelessness, and dramatic decreases in both the city's Black population and in the ability of

²⁵ https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Design_Review_Committee/2017-12-21_DRC_Staff%20Report_1499%20University.pdf

²⁶ "New buildings along the north side of University Avenue must avoid blocking the sun of all but a small portion of an adjoining parcel to the rear. Specifically, a new building shall not cast a shadow more than twenty feet (20) onto the adjacent property rear yard when the southern sun is at a 29 degree angle on the winter solstice (see diagram)."
[https://www.cityofberkeley.info/uploadedFiles/Planning_\(new_site_map_walk-through\)/Level_3_-_General/N.%20Design_Guidelines.pdf](https://www.cityofberkeley.info/uploadedFiles/Planning_(new_site_map_walk-through)/Level_3_-_General/N.%20Design_Guidelines.pdf)

younger generations of Berkeleyans to make a home for themselves in the place they grew up. The existence and worsening of these negative consequences that have resulted would suggest that attempting to recreate previous policies in a new, “objective” form could result in the continuation of undesirable trends in affordability and exclusion. Moreover, many of Berkeley’s now problematic housing policies and approvals processes were a product of efforts to prevent “incompatibility.” Indeed, the birth of exclusionary zoning in Berkeley was a direct result of an African American dance hall being viewed as “incompatible” with its surrounding neighborhood.

DISCUSSION AND RECOMMENDATIONS

The recommendations herein provide guidance for Staff, the Planning Commission, and/or consultants to use in proposing objective development and design standards for new zoning created pursuant to the 2023–2031 Housing Element Update. As with all objective standards, it is likely that standards may differ from district to district, in overlay areas, and where one district, zone or overlay area borders another. Staff and the consulting team are asked to undertake a segmented review of each meaningfully different circumstance, consider current patterns and practices of Staff and ZAB, review zoning codes of similar sized or situated jurisdictions, ensure objective standards align with the underlying housing capacity and purpose of the underlying zoning designation, and, at the conclusion, propose certain standards for Berkeley to codify.

Five main criteria were used to analyze the various alternatives before Council:

- **Housing production:** How do the alternatives impact Berkeley’s ability to efficiently and fairly produce homes?
- **Cost:** What are the financial implications of the various alternatives?
- **Environmental sustainability:** How well do the alternatives align with the Climate Action plan and best practices to combat global climate change?
- **Racial and social equity:** How well do the alternatives advance racial and social equity and affirmatively further fair housing?
- **Administrative considerations:** What are the implications for internal logistics and staff time for the alternatives? (i.e., When could it be addressed? What will be delayed? How do the alternatives interface with the Housing Element Update? What issues/goals will be addressed with the Housing Element process currently underway?)

DENSITY

Discussion:

As discussed in the item from Hahn, Arreguín, Wengraf, and Harrison (HAWH), Berkeley’s current zoning code uses a variety of methods to regulate the intensity of development on a single parcel. Not every zone uses all of the methods, but all use one or more:

- Prescribed number of units per parcel or parcel of a certain size, the latter of which effectively equates to a units per acre maximum (R-zones)
- Height, Setbacks, Building separations and Lot Coverage/Open Space requirements
- Floor Area Ratio (FAR)

Most of these approaches avoid placing an explicit cap on the potential to create new homes and welcome new residents. And a building that meets FAR, setback, and height standards, for

example, has flexibility to include a smaller number of large units, a larger number of small units, or a mix. Some State laws interact with Berkeley's Zoning Code by granting a percent-based density bonus for projects that incorporate affordable housing units. In areas where Berkeley does not currently impose a cap on dwelling units per acre, the density bonus is applied based on the potential floor area of a project. Certain peculiarities in Berkeley's zoning code (most notably additional density granted through Use Permits) have previously caused confusion regarding how to calculate a density bonus; however, recent State-level guidance has clarified these issues. Potential floor area therefore remains a valid approach to calculating density bonuses, and continues to be successfully applied within Berkeley. Therefore, a shift to capping the number of allowable new homes within a proposed building is unnecessary and would ultimately limit flexibility.

As established in *Twain Harte Homeowners Association v. County of Tuolumne* (1982) (138 Cal.App.3d 664), General Plans are required to establish standards for population density. This means that a persons per acre standard (or a set of other standards that can be reasonably used to arrive at such a standard) is required for land uses designations with the potential to include residences. However, this does not obligate Berkeley's General Plan or zoning to incorporate a *dwelling units* per acre standard. Indeed, Berkeley's General Plan already makes use of a persons per acre standard rather than one based on units. Population ranges based on developable square footage and estimates of average living space per person therefore represent a viable approach to providing State-mandated population density standards in Berkeley's General Plan land uses—which will likely need to be revised to accommodate the Housing Element Update rezoning. This approach also offers an advantage over approaches based on a combination of units per acre and persons per unit because the number of persons per unit in Berkeley tends to vary greatly, in part owing to the large student population.

The Joint Subcommittee on the Implementation of State Housing Laws (JSISHL) took the following action on Density Standards:

- **Recommended** that the Planning Commission and Design Review Committee develop an objective standard for density using Floor Area Ratio and potentially form-based code as a secondary option.
- **Rejected** a motion to:
 - a) develop a dwelling units per acre standard in all commercial districts and in the Mixed Use Light Industrial and Mixed Use Residential districts with consideration of a cap on average number of bedrooms
 - b) consider the size of parcel and develop an average bedroom/unit (to be determined) for multi-unit buildings
 - c) Develop Floor Area Ratios (FARs) for residentially zoned ("R" prefix) districts such as R-2, R-2A, and R-3, to help clarify and make more objective what is permitted in these districts

The Hahn, Arreguín, Wengraf and Harrison (HAWH) Alternative recommends the following action on density standards:

- Refer to the City Manager, Planning Commission, and City Attorney: the codification of units-per-acre standards for C- and MU-R Districts, as originally recommended by a majority of the City Council on July 17, 2017. The City's General Plan, Area Plans and the Purposes Section of each District provide guidance. Rezoning to increase density beyond what is already contemplated in existing plans and purposes will be considered in the context of the Housing Element Update.

Analysis of the density standards alternatives using the criteria listed above:

- **Housing production:** Both the JSISHL and HAWH alternatives could result in a potential decrease in housing production and/or in unit design flexibility relative to maintaining the status quo of 1) not setting hard caps on units per acre in most circumstances and 2) not prescribing an FAR in every case. Even in the context of overall increases to potential building envelopes under new zoning, hard units per acre caps (as recommended by the HAWH alternative) would serve to limit the number of units that could be produced within a given parcel. The JSISHL proposal is somewhat more flexible, instead opting for a combination of FAR and development standards; however, with height, setback, stepback, and/or lot coverage standards, FAR is not strictly necessary. Our proposal allows the most flexibility in creating homes while still enabling the City to establish controls on height and building form.
- **Cost:** The JSISHL and HAWH approaches could reduce staff time costs by providing additional clarity regarding density controls and density bonus calculations, but could also increase staff time costs by, in certain cases, applying a combination of two (JSISHL) or three (HAWH) different types of density control where only one or two currently apply. Additionally, by potentially reducing the number of units, the JSISHL and HAWH alternatives have the potential to reduce production of inclusionary units and/or the City's receipt of Affordable Housing Mitigation Fees. Both of these would have the potential to indirectly increase the need for City expenditures on the provision of affordable housing in order to meet RHNA goals. Our approach seeks to reduce staff time, provides clarity around density controls and calculations, *and* would increase the potential for more affordable housing inclusionary fees or affordable units.
- **Environmental sustainability:** The HAWH alternative would potentially result in worse sustainability outcomes relative to the status quo because it would tend to reduce the number of new homes that could be provided by imposing hard caps on the allowable number of units per acre and/or by setting a maximum FAR. JSISHL's FAR proposal would tend to reduce the amount of livable space that could be constructed from what would otherwise be allowed by the building envelope created purely by standards regarding height, setback, stepback, and lot coverage. Our proposal is the most environmentally sound, given that infill housing near jobs and transit remains one of Berkeley's most effective means of reducing greenhouse emissions relative to business as usual, and any reduction in housing capacity would undermine the City's established sustainability/climate action goals.²⁷

²⁷ This finding is generally consistent with the analysis presented in the recent Draft Environmental Impact Report (DEIR) for the North Berkeley and Ashby BART projects, which found that allowing additional residential units represented the environmentally superior alternative.

- **Racial and social equity:** Hard limits on the number units per acre have been a hallmark of exclusionary zoning. Such limits tend to reduce the number of homes provided and increase the size of units, making them less affordable. Therefore the HAWH approach of universally applying units per acre density limits would tend to be worse for racial and social equity than the status quo and our recommendation of not doing so. The impact of the JSISHL alternative is indeterminate but would tend to decrease capacity for new affordable homes, and would therefore have a less positive impact on racial and social equity than our proposal.
- **Administrative Considerations:** None of the alternatives pose significant administrative challenges in terms of drafting and adoption because development standards are *already* part of the work plan and currently being discussed as part of the 2023–2031 6th Cycle Housing Element Update. However, as discussed above under cost considerations, imposition of additional types of density control on project approvals could require additional staff time for analysis.

Recommendation:

Refer to the City Manager and Planning Commission to consider, as part of a comprehensive approach to the Housing Element Update rezoning, the following approaches:

- Eliminate units-per-acre restrictions on the creation of new homes (this would serve to maximize production of and flexibility for new homes within allowed building envelopes)
- Establish *minimum* units-per-acre requirements to ensure adequate baseline capacity and provide appropriate housing capacity buffers (this would ensure that adequate capacity is provided to meet RHNA targets and achieve Housing Element compliance)
- Apply height limits, lot coverage limits, and minimum setbacks and stepbacks as the primary means of controlling density/bulk (this would serve to control the form of buildings while not codifying the assumption that providing additional livable space is inherently undesirable)
- Evaluate in which areas of Berkeley, if any, it may be appropriate to use FAR as an additional development standard for limiting overall bulk (this would serve to preserve FAR as an option for consideration in areas that may be particularly environmentally sensitive)

SUNLIGHT/SHADOWS

Discussion

The use of “Daylight Plane” requirements on the University Avenue corridor has tended to reduce the potential to create new homes and imposed potentially expensive architectural requirements on new buildings. On the north side of University Avenue, where daylight plane requirements have been most impactful, many parcels remain underutilized; and those parcels that have been redeveloped have tended to feature fewer new homes relative both to what would have been achievable without these requirements and to comparable parcels along other major thoroughfares. Additionally, by requiring a tiered, “wedding-cake” like approach to building form, daylight plane and shadow requirements tend to reduce alignment between building stories, which can increase the cost of routing plumbing/utilities and increase building surface area, which lowers energy efficiency.

It is therefore recommended that solar/shadow regulations be based on simple development standards (i.e. generalized height, setbacks, setbacks, etc.) to ensure maximization of two major City goals: housing production and decreases in travel-associated GHG emissions.

The Joint Subcommittee on the Implementation of State Housing Laws (JSISHL) took the following action on shadow standards:

- **Recommended** that the Planning Commission and staff review and refine the following shadow standards:
 - Applicability of Shadow Impacts:
 - Shadow impacts would not be considered when a proposed new building or new construction meets all base development standards.
 - Shadow impacts on an adjacent property would only be considered when a side or rear yard setback reduction or an increase in height is requested by use permit or by state density bonus over the allowable standard. Shadow impacts for Front or Street yard setback reductions would not be included or considered.
 - The shadow impact would only be calculated on the increase in shadow caused by the additional height or reduced setback portion of the project, not the cumulative.
 - Adjustments would seek to limit reductions in overall building envelope and could compensate with increases in height in another portion of the building, or reduced setback in another portion of the site, or some other mutually agreed adjustment to a development standard or mitigation. Adjustments may require, if no other solution can be proposed to mitigate the impact, a reduction in the overall total building envelope proposed. However, for state density bonus projects, adjustments to a proposed new residential construction shall not require a reduction in the overall total building envelope, habitable area, or cause the number of bedrooms or units to be reduced.
 - If the adjacent building being affected has a reduced building setback on the adjacent side or rear yard, a light and air impact would not be applicable, except in those cases where the building has a historic designation or was built prior to the implementation of the zoning code.
 - Elements of consideration for Shadow Impact:
 - Light & Air for Building Openings of Applicable adjacent buildings: The light and air shadow impact shall consider impact to light and air access only of the existing windows and door openings of the applicable adjacent buildings. The new construction would be required to adjust its setback such that a minimum 3 foot perpendicular distance was achieved and a 6 foot width, with minimum 1 foot on either side of the window or door for 2 stories (min. 6 foot for courts with openings on both sides) and 1 foot additional setback for each additional story up to 14 stories, or a total maximum setback of 15 feet from the adjacent building. For instance if

the building is 3 feet away from the property line, a 12 foot maximum from the property line for the new building.

- Minimum Required Open Space of Adjacent properties: An increase in shadow impact caused by the additional height or reduced setback on the minimum required open space of the adjacent impacted property shall not be more than a 50% increase in direct shade averaged over the entire year. If the affected property has more than the required open space, the calculation would be made on the open space that is least impacted by the shadow. The setback or height shall be adjusted to result in a net shadow increase of no more than 50% (or suggest alternate per staff research) as limited in Section 1 above. The shadow impact would only be calculated on the increase in shadow caused by the additional height or reduced setback portion of the project, not the cumulative.
- Solar Access: An increase for the additional impact only of more than 50% of direct shading on existing solar panels averaged over the entire year and over the entire area of solar array would require that an adjustment to the requested height or setback be made, or other mutually agreed adjustment to a development standard or mitigation be made. If a mitigation such as moving the solar panels or re-orienting the solar panels has been mutually agreed upon in lieu of a development standard adjustment, this mitigation should be completed prior to building permit issuance, if possible.
- The shadow impact would only be calculated on the increase in shadow caused by the additional height or reduced setback portion of the project, not the cumulative.
- The Joint Subcommittee on the Implementation of State Housing Laws (JSISHL) **rejected:**
 - Using existing daylight plane standards, including the standards for San Pablo Avenue in El Cerrito, and with the City's own standard in effect for University Avenue.
 - Applying shadow standards for a Use Permit, Administrative Use Permits, waivers or density bonuses to exceed the "base" residential and commercial zoning district development standards that are in effect as of 7/1/20.
 - Considering impacts on light and air and existing windows and door openings of the applicable adjacent buildings will be taken into consideration
 - Protecting existing rooftop solar panels from shadowing by new development on adjacent and nearby parcels.
 - Limiting shadowing of residential buildings by new development on adjacent or nearby parcels in residentially zoned ("R" prefix) districts and to properties in commercially zoned ("C" prefix) districts that are adjacent to residential properties, where new development could cause shadowing impacts on residential properties.
 - Protecting open, currently unshadowed areas of public parks and unshadowed areas of school grounds that are used for student recreation.

The Hahn, Arreguín, Wengraf and Harrison (HAWH) Alternative recommends the following action on shadow standards:

- Developing standards for shadowing and solar impacts should be proposed for all Commercial (C-) and the Mixed Use Residential (MU-R) Districts.
- Proposed standards should include both base and, where appropriate, extra allowances and/or programs and consider the following:
 - Consideration for public parks, gardens, schools and recreation and gathering areas
 - Protections for solar panels and/or compensation for loss of solar panel access
 - Standards for transitions where Commercial/MU-R and Residential Districts meet, to limit impacts
 - If possible, allowance for adjustments (through the use permit process) to the location, orientation and massing of structures to minimize shadowing and/or solar access impacts, including allowances to reduce setbacks or lot coverage requirements.

Analysis of the alternatives using the criteria listed above:

- **Housing production:** Both the JSISHL and HAWH alternatives could result in substantial decreases to housing production relative to the status quo of not applying broad/citywide daylight plane and/or shadow study requirements —both of which have the potential to lower parcel housing capacity and significantly increase design complexity and development costs. Our proposal would instead improve predictability, simplicity, and feasibility by forgoing an additional layer of regulation and instead relying on pre-defined, quantitative development standards (height, setback, stepback, etc.).
- **Cost:** The JSISHL and HAWH alternatives would both have the potential to increase development costs and costs related to staff time. Daylight planes and shadow standards increase design complexity and costs, while also increasing construction costs by requiring more complex building envelopes, utilities systems, etc. Shadow studies directly increase design costs through the need to perform modeling and possible revisions to the building envelope. Both options increase staff time by increasing the complexity of determining project compliance. Additionally, by reducing the potential number of units, the JSISHL and HAWH alternatives have the potential to reduce production of inclusionary units and/or the City's receipt of Affordable Housing Mitigation Fees. Both of these would have the potential to indirectly increase the need for City expenditures on the provision of affordable housing. Our approach, by reducing layers of regulation and avoiding potential reductions to the number of units allowed on a parcel, would reduce design/construction costs and potentially result in reduced need for the City to finance affordable units.
- **Environmental sustainability:** Both the JSISHL and HAWH alternatives would potentially result in worse sustainability outcomes relative to the status quo and our proposal because both alternatives would tend to reduce the number of new homes that could be provided on commercial and mixed use residential corridors by potentially requiring reductions in the buildable envelope to meet daylight plane or shadow

requirements. It is true that increased shading created by new buildings could somewhat reduce Berkeley's local generation of renewable energy. However, given that overall electricity generation is transitioning toward renewable sources of electricity, and given that infill housing near jobs and transit remains Berkeley's single most effective means of reducing greenhouse emissions relative to business as usual, any reduction in housing capacity would represent a greater negative impact to the City's achievement of its sustainability/climate action goals.²⁸

- **Racial and social equity:** The impacts of the HAWH alternative on racial/social equity would rest heavily on what specific daylight planes or shadow standards are adopted and where/how they are applied. For example, if applied only to projects that encompass a very large parcel or even an entire block, there may be sufficient onsite flexibility to ensure daylight planes or shadow standards would not result in a reduction in the provision of housing and affordable housing. On the other hand, if applied to a small parcel, daylight planes or shadow standards could have a significant effect on the number of units/affordable units the site could accommodate--especially if the site is too small to accommodate flexible location of taller project elements. The JSISHL alternative would have extremely negative impacts to racial and social equity because, as currently conceived, it would require *all* density bonus projects to conduct a shadow study, thereby subjecting projects that include affordable units to greater regulatory burden than projects without affordable units.
- **Administrative Considerations:** By requiring the City Manager and staff to act immediately on its recommendations for solar planes, the HAWH and JSISHL alternatives would serve to limit options for comprehensively addressing these zoning questions as part of the Housing Element Update and potentially induce staff to immediately deprioritize other efforts in pursuit of its recommendations.^{29,30} Our alternative offers flexibility for these questions to be addressed while the comprehensive zoning changes are under consideration during the Housing Element Update.

Recommendation:

Refer to the City Manager and the Planning Commission to consider, as part of a comprehensive approach to the Housing Element rezoning, the following approaches:

- Eliminate burdensome project-level shadow study requirements for creating new homes (this would increase development certainty, improve the ability of small and local developers to participate in the creation of new homes, reduce predevelopment costs, and shorten pre-development timelines)

²⁸ <https://coolclimate.berkeley.edu/calculator>

²⁹ From the HAWH item, as presented in Supplemental materials for the 10/26/2021 meeting: "The City Manager is **requested to prioritize** recommendations most urgently needed to address project types subject to state-mandated ministerial review and to support implementation of any rezoning related to the 2023 Housing Element Update. Additional recommendations, if any, should be **brought forward as quickly as possible**.[emphasis added]"

³⁰ From the JSISHL Recommendation: "Additional staff time amounting to \$100,000 would have to be covered by re-arranging staff priorities within existing resources to support the effort."

- Rely on development standards such as height limits, lot coverage, setbacks, and stepbacks as the metrics for adjudicating whether shadow impacts would be “excessive” (this would increase development certainty and serve to establish acceptable shadow impacts on a programmatic rather than project level)
- If and to the extent shadow studies remain a component of the approvals process, require that the net shadow impacts of proposed development be considered in the context of existing vegetation and its reasonably projected growth (this would serve to ensure that new housing projects are not unfairly penalized for creating new shadows in areas that are already shaded by vegetation)
- Avoid and/or eliminate zoning code provisions that conflict with the human right to housing by reducing or obstructing housing creation for the purpose of privatizing sunlight and solar energy (this would serve to ensure that the human right to housing is not being made secondary to private solar energy generation)

BUILDING FORM AND BASIC DESIGN ELEMENTS

Background materials for the HAWH item correctly indicate that Berkeley currently allows for a variety of architectural styles and design choices, and this proposal concurs that the City should continue to do so. Additionally, this item concurs that certain development standards are useful for ensuring the creation of a convenient and engaging streetscape and pedestrian realm, most importantly along major commercial/mixed use corridors. However, the HAWH and JSISHL alternatives also reference [other design standards](#) that relate more to aesthetic preferences/tastes and which arguably do not merit codification through objective standards.

Rigidly imposing these standards would effectively render illegal some of Berkeley’s most iconic buildings, were they proposed today. Furthermore, had they been in place at the time they were proposed, some of Berkeley’s most innovative new buildings would have been stymied by these standards. For example, Transform’s GreenTRIP award-winning 2201 Dwight project, which incorporated modular construction and a rooftop garden, would be incapable of meeting HAWH’s and JSISHL’s recommended requirements for base and rooftop articulation as well as mixed materials. Additionally, there are some design standards that have heretofore been favored by existing design guidelines and the Design Review Committee—namely, facade articulation—that negatively impact construction costs, building energy efficiency, and unit layouts.

This alternative approach therefore advocates taking a lighter touch, to allow for creativity, while still seeking to preclude certain negative design choices in the pedestrian realm.

The Joint Subcommittee on the Implementation of State Housing Laws (JSISHL) took the following action on Design Standards:

- the Design Review Committee and Planning Commission review the [staff matrix](#) on
 - Neighborhood context
 - Building design
 - Ground floor design
 - Parking lots, garages, and driveways

- Building Accessories
- Street Trees
- Signs and Awnings

The Hahn, Arreguín, Wengraf and Harrison (HAWH) Alternative recommends the following action on design standards:

- Refine the [staff-proposed matrix of base standards](#) and include consultation with the Design Review Committee and Zoning Adjustments Board as well as review of standards adopted or proposed in other similar California jurisdictions.
- Consider “special standards” where C- and MU-R Districts meet each other or meet overlays or Residential areas to avoid “deleterious impacts” and serve “neighborly functions.”
- Create provisions to allow buildings that do not conform with these standards to be able to receive permits on a “case by case basis.”
- Review recent case law to ensure compliance with evolving legal standards for objective elements.

Analysis of Status Quo, JSISHL and HAWH alternatives using the criteria listed above:

- **Housing production:** Both the JSISHL and HAWH alternatives could result in a potentially substantial decrease in housing production as a result of increasing design/construction cost, increased staff effort necessary to review development proposals for compliance, and a narrower pool of potential homebuilders capable of meeting such requirements. It should be noted that the HAWH proposal’s allowance of exceedance of standards “on a case by case basis,” without defining objective standards for the allowance of exceedances could represent an impermissible “subjective” standard depending on the exact implementation, and further delay projects.
- **Cost:** The JSISHL and HAWH alternatives could increase design, labor, and materials costs for development. Additionally, by reducing the potential overall number of housing units built, the JSISHL and HAWH alternatives have the potential to reduce production of inclusionary units and/or the City’s receipt of Affordable Housing Mitigation Fees. Both of these would have the potential to indirectly increase the need for City expenditures on the provision of affordable housing. Moreover, the application of design standards to the City’s own affordable housing projects could substantially increase design and construction costs.
- **Environmental sustainability:** Both the JSISHL and HAWH alternatives would potentially result in worse sustainability outcomes because both alternatives would tend to impose requirements that decrease energy efficiency and to reduce design flexibility to allow for green building features. Our proposal avoids imposing inefficient building massing, and instead offers the greatest flexibility to incorporate green building features and design for overall sustainability.
- **Racial and social equity:** Aesthetic concerns and exacting architectural requirements have been a hallmark of exclusionary zoning.³¹ Such requirements tend to increase

³¹ As discussed in the following report, stringent design/materials requirements have been used to discourage the creation of more affordable homes. In one particularly egregious example, the town of

development costs, making housing less affordable. Therefore the JSISHL and HAWH approaches of greatly increasing the specificity of Berkeley design standards would have the potential to worsen outcomes with respect to racial and social equity. Our proposal would serve to lower development costs by allowing for greater flexibility with respect to design and construction, relying on building and fire code requirements to ensure building materials and designs that meet minimum health and safety standards.

- **Administrative Considerations:** By requiring the City Manager and staff to act immediately on its recommendations the HAWH alternative would serve to limit options for comprehensively addressing these design/zoning questions as part of the Housing Element Update and induce staff to immediately deprioritize other efforts in pursuit of its recommendations. By allowing its recommendations to be further considered by the Council, Design Review Committee and Planning Commission, with no specific mention of timing or deadlines, the JSISHL alternative would allow staff and commissions to potentially address these issues comprehensively. Our alternative also offers flexibility for these questions to be addressed at an appropriate time when other zoning changes are under consideration and in a manner that—while still making recommendations for consideration—avoids presupposing what the optimal approach will be in the face of myriad and potentially competing considerations.

Recommendation:

Refer to the City Manager and the Planning Commission to consider, as part of a comprehensive approach to the Housing Element rezoning, the following approaches:

- Maintain or establish objective design or other standards regarding the following:
 - Ground floor transparency along major roadways/commercial corridors (to provide eyes on the street, increase visual interest, avoid blank walls, and enhance commercial/mixed-use district vitality)
 - Ground floor height in commercial/mixed use districts (to create high-quality commercial spaces that are more likely to appeal to retailers and other tenants)
 - Location of storefronts and pedestrian entrances (to maintain/increase pedestrian convenience)
 - Location/screening/lighting/ventilation of garage areas (to reduce impacts to pedestrians and visual/noise impacts of automobiles)
 - Location of garage doors, loading docks/areas, and utility access (to maintain/increase pedestrian convenience and reduce risk of collisions)
 - Overall reduction/avoidance of curb cuts (to maintain/increase pedestrian convenience, reduce risk of collisions, and increase sidewalk space available for street furniture and other amenities)
 - Planting of street trees and/or other landscaping (to increase shade, provide habitat, and enhance street appearance)
 - Provision of exterior lighting (to ensure nighttime safety and enhance building appearance)

Tuttle, Oklahoma passed an ordinance banning the use of vinyl siding. Another example is Bryan County, Georgia. <https://www.nahb.org/-/media/NAHB/advocacy/docs/industry-issues/land-use-101/state-local-affordability/residential-design-standards-072020.pdf>

- Provision of exterior bike racks and provision of interior bike parking (to enhance convenience of bicycle transportation)
- Avoid, minimize, or eliminate objective design standards related to the following:
 - Building color (to avoid potentially confusing and subjective disagreements over the quality or merits of particular colors or shades and to prevent architectural monotony)
 - Exterior Materials/Cladding (to avoid: architectural monotony, increasing construction/housing costs, precluding the use of innovative materials, subjective judgements about the relative “quality” of materials, and expenditure of staff time on evaluation of materials choices beyond what is necessary for building/fire code compliance and public health/safety)
 - Base articulation—aside from minimum ground floor heights in commercial districts (to avoid architectural monotony and/or the preclusion of innovate/modular construction types)
 - Roofline articulation (to avoid unnecessary reductions to livable space, and/or preclusion of innovative construction types)
 - Facade articulation (to avoid inefficient building design, increased construction costs, decreased building efficiency, and suboptimal unit layouts)
 - Minimum or maximum windows—aside from that required by building/fire code for public health and safety (to avoid architectural monotony and/or precluding innovative/energy efficient design)
 - Awnings/canopies (to allow flexibility for new structures to reflect existing buildings, which include a mix of awnings, canopies, and no coverings and avoid visual clutter, reduce maintenance costs and the likelihood of damage/vandalism)
- Develop voluntary city-wide or district-level design guidelines that clearly and comprehensively explain community design preferences, but avoid the one-size-fits-all approach of codifying an exhaustive variety of standards/considerations.

VIEWS AND PRIVACY

Consistent with the overall approaches outlined in the HAWH and JSISHL alternatives, this proposal recommends that views and privacy generally not be a major consideration in the development of objective development and design standards.

FISCAL IMPACT

Funds needed, if any, for additional consulting services to complete objective design standards codification should be referred by the City Manager to future budget processes.

Developmental standards are currently under consideration for the 2023–2031 6th Cycle Housing Element Update. These developmental standards will address the bulk and density that creates shadowing on adjacent parcels.

Contact Information

Vice Mayor Lori Droste
510-981-7180

ldroste@cityofberkeley.info

Links

<https://www.berkeleyside.org/wp-content/uploads/2017/07/2017-07-11-Item-29-Housing-Accountability-NEW.pdf>

https://www.cityofberkeley.info/Clerk/City_Council/2018/06_June/Documents/2018-06-12_Item_34_Defining_Objective_Standards_for_Views.aspx

<https://www.berkeleyside.org/wp-content/uploads/2017/06/MPA-ISO-Motion-to-Enforce-05.25.17.pdf>

Images/descriptions of buildings impermissible under [objective design standards matrix](#)

Impermissible: Shattuck Hotel - 2086 Allston Way (City of Berkeley landmark)



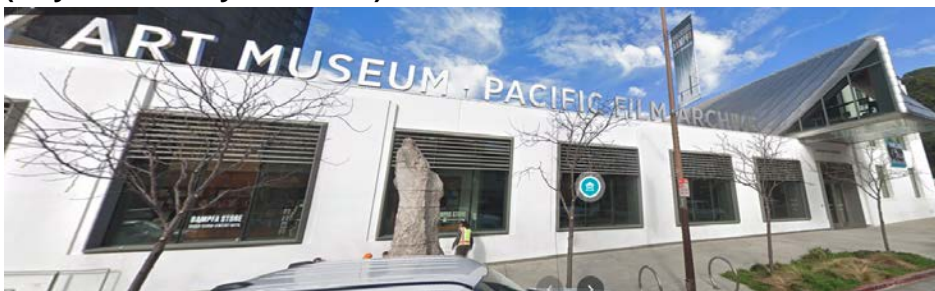
- Buildings over three stories tall shall have major massing breaks at least every 100 feet along every building frontage through the use of varying setbacks, building entries, and recesses, courtyards or structural bays. **Major breaks shall be a minimum of 5 feet deep and 10 feet wide** and shall extend at least two-thirds of the height of the building
- Provide balconies or upper facade projections or recesses every 25 to 30 feet. Upper facade projection or recess - Any balcony, window box, window articulation that either creates a recess in or projects out from the building face.
- At least one publicly-accessible street-level entrance shall be provided for every 40 feet along a streetfacing property line. [South side of the building fails this test]

Impermissible: Kroeber Building - 2054 University Ave (City of Berkeley landmark)



- A primary building entrance must have a roofed projection in the form of either a canopy or the extension of a vertical bay, or recess with a minimum depth of 5 feet and a minimum area of 60 sq. feet.

Impermissible: Berkeley Art Museum / Pacific Film Archive - 2155 Center St (City of Berkeley landmark)



- At least one publicly-accessible street-level entrance shall be provided for every 40 feet along a streetfacing property line. Any remainder exceeding 30 feet shall also have a publicly-accessible street-level entrance.
- A primary building entrance must have a roofed projection in the form of either a canopy or the extension of a vertical bay, or recess with a minimum depth of 5 feet and a minimum area of 60 sq. feet.
- All lighting shall be downcast and not cause glare on the public right of way or neighboring parcels.
- Differentiate the base. A base shall visually carry the weight of the building.

**Impermissible: La Casitas Apartments - 1619 Walnut St
(City of Berkeley Structure of Merit)**



- At least two materials shall be used on any building face visible from the street or adjacent parcel in addition to glazing and railings. Any one material must comprise at least 20% of street facing building facade.
- At least one publicly-accessible street-level entrance shall be provided for every 40 feet along a streetfacing property line.
- Differentiate the base. A base shall visually carry the weight of the building.

**Impermissible: Mobilized Women of Berkeley Building - 1007 University Avenue
(City of Berkeley landmark)**



- At least one publicly-accessible street-level entrance shall be provided for every 40 feet along a streetfacing property line.

- At least two materials shall be used on any building face visible from the street or adjacent parcel in addition to glazing and railings. Any one material must comprise at least 20% of street facing building facade.

Impermissible: Garden Village - 2201 Dwight way



- At least one publicly-accessible street-level entrance shall be provided for every 40 feet along a streetfacing property line.
- At least two materials shall be used on any building face visible from the street or adjacent parcel in addition to glazing and railings. Any one material must comprise at least 20% of street facing building facade.
- Differentiate the base. A base shall visually carry the weight of the building.

Impermissible: Berkeley Way Housing Project (under construction)



- Differentiate the base. A base shall visually carry the weight of the building.