

Timestamp	What neighborhood of Berkeley do you live in?	What is your affiliation to Berkeley?	What is your age?	Do you have any comments on Chapter 1: Introduction?	Do you have any comments on Chapter 2: Goals, Policies, and Objectives?	Do you have any comments on Chapter 3: Housing Needs?	Do you have any comments on Chapter 4: Housing Constraints?	Do you have any comments on Chapter 5: Housing Resources?	Do you have any comments on Appendix A - Publicly Assisted Housing?	Do you have any comments on Appendix B - Summary of Development Standards?	Do you have any comments on Appendix C - Sites Inventory?	Do you have any comments on Appendix D - Review of the 2015-2023 Housing Element?	Do you have any comments on Appendix E - Affirmatively Furthering Fair Housing?	Do you have any comments on Appendix F - Outreach and Engagement?	Do you have any additional comments?	How do you identify?	What is your annual income?	Do you have a disability?	Do you work in a housing-related field? If so, in which area?									
10/18/2022 14:51:26	Upper North Berkeley	Berkeley resident, Work in Berkeley	45-54								The sites inventory includes 2100 San Pablo, a project which is already complete.					White or Caucasian	\$200,000 or more	No	No									
10/25/2022 13:20:06	North Berkeley	Berkeley resident	45-54	no		Please include in the report that 79% of the population growth in Berkeley between 2010 and 2020 is due to an increase in UC admissions. The population in Berkeley has increased 9% since 2010. 79% of that population increase is due to the increase in admissions at UC Berkeley. This is a very important piece of the story, especially since the council gave the green light to UC to continue increasing admissions over the coming years.  here's the data as culled from google: UCB 2010 student population: 35,838 UCB 2020 student population: 45,057 population increase of 9,219 persons  berkeley population in 2010: 112,580 berkeley population in 2020: 124,321 population increase of 11,741 persons  9,219 of 11,741 - or 79% - of the new residents in Berkeley between 2010 and 2020 are students! This is very relevant as UC MUST take responsibility for housing their students. If we continue as its been, there's no end in sight to the increase in short term (year long) rentals and the increase in rental rates due to the continuously increasing UC student body. This is detrimental to the need of the residents of Berkeley as it slows the rental rates and makes Berkeley practically unaffordable to everyone else.										White or Caucasian, Other Race	\$200,000 or more	No	No									
10/25/2022 14:46:20	Berkeley Hills	Berkeley resident	65 and older												The housing element is inadequate because it does not provide a reasonable foundation for a healthy, affordable, and safe city with good transportation options to attract and sustain a diverse population. Moreover, increased density in the Hills may help solve one problem (more housing units) but at the absolutely unacceptable cost of creating categorically unsafe conditions for existing and future residents there. Under the current plan, increased housing in the Hills can only be created by turning a blind eye to the environmental impact of that housing, including the exponentially increased fire danger that accompanies denser living in a fire-prone area with limited egress options, and the absence of an overall plan to address transportation needs in that location. Because there is no plan in place to address the danger of increased density and construction in the Hills, the plan for building in the Hills should be deferred. Until the City actually adopts a clear and unified vision that proactively addresses not only housing options, but safety factors, environmental impacts, and the creation and maintenance of spaces and structures which inspire diverse groups of people to live and work in the city, the plan will be deficient. As is, the piecemeal planning (evident in this document) is simply a recipe for disaster. The residents of the Hills have been mandated to create "defensible space" around their homes, yet increased density decreases the ability to create "defensible space." The addition of more electrical and other wires above-ground needed to accommodate more people flies in the face of trying to diminish the existing fire hazard. Similarly, adding a lot more cars to narrow roadways all but ensures a calamity for present and future residents in the event of fire or earthquake. Many of the focus groups noted the problems of increased construction in the Berkeley Hills. It appears these concerns have been irresponsibly ignored. The City should address these issues and reemphasize the value of ensuring the safety of its residents, livability, sustainability, and figuring out how everyone (including seniors, disabled persons, families, commuters, etc.) realistically can get from here to there throughout the city and the Bay Area quickly, reliably, and comfortably. A one-dimensional, piecemeal City plan is basically no real plan at all. The city faces complex problems, including housing issues. To address complex issues requires vision and complex and thoughtful solutions, not just mandates for more housing at any cost.									White or Caucasian	\$100,000-\$149,999	Yes	No	
10/25/2022 23:59:08	Southside	Berkeley resident	25-34			The revised draft waves away the cumulative impact of Berkeley's strict land use controls, citing AB2923 BART development, and minor "missing middle" changes under consideration. However, Berkeley has sought to limit development on BART property by entering into memorandums of understanding with BART that it says will preclude use of the State Density Bonus, and the beginnings of City Council discussion of the Objective Standards process have contemplated adoption of restrictive shadow study requirements and limitations. Berkeley should implement discretionary approvals of multi-unit development with its housing element update, rather than merely considering them. Berkeley should analyze and ensure that the number of units and the form permitted result in economically attractive and feasible conditions for redevelopment of single family properties. The revised draft touts the lack of unit density standards constraining development, stating that "density is not a constraint to development." without adequately analyzing the impact of form-based limits, including setback requirements and height and floor area ratio limits, which constrain the number of units it is possible to develop on each site.				Berkeley's Sites Inventory makes unrealistic assumptions about development to attempt to demonstrate that the Housing Element provides sufficient capacity without reforming land use and approvals. Many sites are occupied by profitable uses, with owners who do not intend to redevelop within this cycle. 85% of opportunity sites are on occupied (non-vacant) parcels, such as the popular Monterey Market. Berkeley has still failed to produce substantial evidence that the owners of these parcels will develop them into housing during the next cycle. Additionally, Berkeley's list of likely sites does not account for the time required by its discretionary approvals process. For example, 2701 Shattuck, listed in the inventory, has been proposed for development since at least 2013, with a completed and uncertain discretionary process including the City Council overturning zoning approval in 2019 ( <a href="https://www.berkeleyside.org/7isr02701-shattuck">https://www.berkeleyside.org/7isr02701-shattuck</a> ). Berkeley should convincingly demonstrate that opportunity sites and likely sites will not be bogged down until the end of the cycle, by removing veto points and limiting discretionary process from its approvals process.			In its revised draft, Berkeley has failed to meaningfully address deficiencies in its AFFH methodology, which results in most new housing units situated on high-injury, high-pollution arterial roads such as San Pablo and University Ave. In turn, the draft housing element retains large swaths of wealthy and high-resource areas such as North Berkeley and Elmwood with few or zero sites for high-density development. East Bay for Everyone's letter ( <a href="https://eastbayforever.org/wp-content/uploads/2022/07/2022-07-14-berkeley-housing-element-draft.pdf">https://eastbayforever.org/wp-content/uploads/2022/07/2022-07-14-berkeley-housing-element-draft.pdf</a> ) highlights the injustice of this approach. To affirmatively further fair housing, Berkeley must plan for dense housing in these high-resource areas, including the blocks around North Berkeley BART. At a minimum, Berkeley should implement SB10 and reform land use and form requirements to permit 10-unit developments in high quality transit areas.			The comment period for this revised draft has been only 7 days, which has limited public review and comment. In this revised draft, Berkeley has not addressed public comment on the initial draft housing element, including letters from East Bay for Everyone ( <a href="https://eastbayforever.org/wp-content/uploads/2022/07/2022-07-14-berkeley-housing-element-draft.pdf">https://eastbayforever.org/wp-content/uploads/2022/07/2022-07-14-berkeley-housing-element-draft.pdf</a> ) and Berkeley pro-housing organizations ( <a href="https://drive.google.com/file/d/1aTnOwE_CGQWESD3S8eDe183U4Jf/view">https://drive.google.com/file/d/1aTnOwE_CGQWESD3S8eDe183U4Jf/view</a> ). These comments also apply to the revised draft housing element. AB 215 requires written responses to these comments on the Housing Element.			The agenda packet and presentation for Worksession 2, included in Appendix F as reference material, state that Berkeley has a grace period and plans to adopt a compliant housing element by the end of March 2023. Note, per communication from HCD ( <a href="https://twitter.com/berkeley/status/1578070771972475529?vid=0&amp;hl=en&amp;vid_src=SQvTYzQ">https://twitter.com/berkeley/status/1578070771972475529?vid=0&amp;hl=en&amp;vid_src=SQvTYzQ</a> ), that the Bulder's Remedy and consequences such as ineligibility for certain funding apply immediately if the January 2023 deadline is missed. Berkeley should adopt a compliant housing element before the end of January 2023.						White or Caucasian	\$100,000-\$149,999	No	No



Councilmember Lori Droste, District 8

October 25, 2022

To: City of Berkeley Planning Department  
CC: California Department of Housing and Community Development  
From: Berkeley City Councilmember Lori Droste  
RE: October 2022 Draft of Berkeley's 2023–2031 Housing Element — Comment Letter

Dear Director Klein and Planning Staff,

I am writing to share additional thoughts on the October 2022 Draft of Berkeley's 2023–2031 (6th Cycle) Housing Element and associated project, pipeline, and opportunity sites inventories.

I would like to first commend staff for the revisions made to the Draft Housing Element and housing inventories for Berkeley and thank all of you for engaging me on these issues. The changes in the most recent Draft add significant clarity and specificity, which is needed both to substantiate Berkeley's projected satisfaction of its target housing capacity under the 6th Cycle RHNA and meet other statutory requirements.

Even so, I believe the Draft Housing Element may still have some shortcomings that should be corrected or clarified in order to provide accurate data, ensure legal compliance, and live up to Berkeley's values of equity and opportunity. I appreciate that we were able to discuss many of the points below and I think our conversation elucidated a lot of important nuances. So that these issues can be part of the public record, as well as Council's and HCD's considerations as Berkeley's Housing Element moves forward, I would like to submit the following comments.

**Multiple housing sites may have been double counted in some form or fashion across some combination of: previous Annual Progress Reports (APRs); Table C-3 Likely Sites - Entitled Projects since 2018; Table C-6: Pipeline Sites - Applications Under Review or Anticipated; Table C-10: Opportunity Sites – No Rezone Required; and/or the Southside Capacity Analysis**

It appears that the Draft Housing Element's evaluation of Berkeley's past performance (Table D-2: Progress Toward Quantified Objectives and Table D-3: City Of Berkeley Housing Unit

Production, 2015-2023) relies upon the total units that received building permits as reported in past APRs; but these APRs themselves appear to have double counted certain units/projects. Additionally, section D2.1 New Unit Construction appears to wrongly use building permits issued as an indicator of actual construction, even though some of these building permits have not been acted upon and/or have even seen their parent projects withdrawn and resubmitted.

Given that these data discrepancies could potentially skew the accuracy of Berkeley's forward-looking housing capacity estimates, it may be advisable to adopt a revised approach that relies—at least in part—on the creation of a single master table to ensure that duplicate sites/projects are consolidated and that projects which received building permits and appeared in previous APRs (and were thus counted toward the satisfaction of the 5th Cycle RHNA) are not counted a second time toward satisfaction of the 6th Cycle RHNA. In this master table, all sites could be classified based on status and could have a column that represents a check of whether the site/project has already been counted in an APR for the previous cycle.

The bullets below present a non-exhaustive list of potentially double-counted sites/projects based on a partial review of the tables listed above.

- 2028 Bancroft Way (37 units) — Counted in Table C-3 Likely Sites - Entitled Projects since 2018 and also Counted in the City's 2019 APR
- 2100 San Pablo (96 units) — Counted in Table C-3 Likely Sites - Entitled Projects since 2018 and also Counted in the City's 2020 APR
- 2023 Shattuck (48 units) — Counted in Table C-3 Likely Sites - Entitled Projects since 2018 and also Counted in the City's 2021 APR
- 3000 San Pablo (78 units) — Counted in Table C-3 Likely Sites - Entitled Projects since 2018 and also Counted in the City's 2021 APR
- 2190 Shattuck (274 units) - Counted in Table C-6: Pipeline Sites - Applications Under Review or Anticipated and also Counted in the City's 2018 APR
- 1914 Oregon (ADU) - Counted in 2019 APR and twice in 2020 APR
- 2352 Shattuck is a two-phase project, the final version of which has a total of 204 units (135 in phase 1 and 69 in phase 2). But appears in the APRs for:
  - 2019: 218 units (building permit issued, counted toward total) (Presumably for both phases)
  - 2020: 202 units (building permit issued, counted toward total) (Presumably for both phases)
  - 2021: 135 units (building permit issued, counted toward total) (Presumably just for phase 1)

In all these cases 2352 Shattuck was counted toward the total units permitted, which then translates into tables D-2 and D-3 of the Draft Housing Element.

- 2009 Addison appears in:
  - 2019 APR: 45 units (building permit issued, counted toward total)
  - 2021 APR: 45 units (building permit issued, counted toward total)
- 2510 Channing appears in :
  - 2019: 40 units (building permit issued, counted toward total)
  - 2021: 36 units (building permit issued, counted toward total)
- 1500 San Pablo appears in 2020 APR, with a building permit issuance of 2017. Unfortunately the 2017 APR does not contain the full table so it was not possible to determine if it was also counted that year.
- 2542 Durant — Counted in Table C-3 Likely Sites Entitled Projects and included as a project in the City's Southside Capacity Analysis (this may only result in the additional units from the Southside capacity analysis being incorrect).

Given that this cursory review indicates that at least 20 percent of the permitted units from the 2015–2022 cycle APRs (and thus table D-3) may also have counted as permitted or anticipated units contributing to the 2023–2031 cycle, a broader check of listed projects may be warranted.

**Opportunity sites identified by the Draft Housing Element continue to include some high-profile non-vacant sites as well as questionable vacant sites—in both cases without compelling evidence that redevelopment is likely to occur during the 6th Cycle.**

Figure 5.2 Residential Sites Inventory and Table C-10: Opportunity Sites – No Rezone Required continue to show the Andronico's grocery store on Shattuck, Monterey Market grocery on Monterey, the parking lot for the Solano Avenue Safeway grocery, the CVS on Telegraph, the Target on University, and Northbrae Community Church on The Alameda as housing opportunity sites. However, the Draft Housing Element does not include substantial evidence (as defined and clarified in HCD's Housing Element Site Inventory Guidebook Government Code Section 65583.2) that these sites will redevelop in the 2023–2031 time frame, absent rezonings or other programs to encourage reuse.

Other sites, such as the now vacant former Oxford Elementary school, are unlikely to be developed due to environmental constraints. In the case of the Oxford Elementary site, [previous geotechnical analyses](#) have revealed the area to be vulnerable to catastrophic earthquake-induced landslide damage, and that any construction would require advanced and expensive construction techniques—making it unlikely if not infeasible for housing to develop here. A number of other sites shown in Figure 5.2 include steep topography and poor access which could preclude development; notable examples include vacant lots along Keith Avenue, Cragmont Avenue, Bay Tree Lane, Hill Road, and Wildcat Canyon Road.

Although the Housing Element would appear to have a considerable buffer with respect to opportunity sites, the inclusion of these more challenging sites calls into question what proportion of the listed sites can actually be expected to develop during the 6th Cycle. To

reiterate a point raised in my July 2022 comment letter: Past projects and the high number of housing proposals being submitted recently may not be indicative of future performance because these current projects may represent sites that constitute “low-hanging fruit.” In any event, the lack of less constrained opportunity sites in high resource areas remains problematic.

**I am concerned that the Draft Housing Element continues to lack opportunity sites and policies that would achieve goals and statutory requirements related to affirmatively furthering fair housing (AFFH).**

As illustrated in Figure 5.2 Residential Sites Inventory, the vast majority of pipeline, likely, and opportunity sites in Berkeley are located in Downtown, Southside, and south and west Berkeley. Very few sites are located in northeast, southeast, or north central Berkeley. Additionally, nearly if not all of the “high” opportunity sites in northeast and north central Berkeley shown in Figure 5.2 are located on sites that are non-vacant or which have significant slopes or landslide risks that could preclude development.

It appears there are many other potential properties on Solano, North Shattuck, and College Avenues that could be rendered into opportunity sites with appropriate rezoning. Given that similarly small parcels in the Downtown and Southside are successfully redeveloping with mixed-use housing, it would not appear that lot size alone is acting as an insurmountable constraint. The very fact that similarly sized parcels are regarded as opportunity sites in one high-demand neighborhood but not another demonstrates that zoning constraints are creating disparities in housing opportunity. Providing additional opportunity sites in these high-resource areas through rezoning would also help alleviate issues with sites that are more constrained by environmental hazards or existing uses that are deeply valued by the community.

Altogether, these facts mean that the vast majority of Berkeley’s new housing—especially higher density and affordable housing—would be concentrated in areas in South and West Berkeley and outside of Berkeley’s highest resource neighborhoods. This would deprive individuals and families of the opportunity to live in these neighborhoods, thereby exacerbating inequities. I would therefore urge that Draft Housing Element Program 27 be revised to include greater specificity to compel action by the City to ensure AFFH-consistent housing creation in these areas.

**Planned changes to Berkeley’s fee structure and construction labor requirements could impact the feasibility of pipeline and opportunity site projects.**

Although it is outside the scope of the Housing Element process to attempt to anticipate regulatory changes that may be subsequently enacted by the City Council, it is important to note that projections of housing capacity are predicated on economic/feasibility factors that are subject to change—including through significant policy change in the near future.

It is possible that Berkeley will soon adopt [changes to construction labor standards](#) (requiring healthcare costs be covered for all construction workers) and its affordable housing mitigation

fees (requiring fees to be paid on a square footage rather than per-unit basis) that could greatly impact the economics of homebuilding. Given this strong possibility, coupled with the issues described above, the Housing Element should ideally include an even more generous buffer.

**Berkeley's housing capacity estimate may rely too heavily on projects approved in the past.**

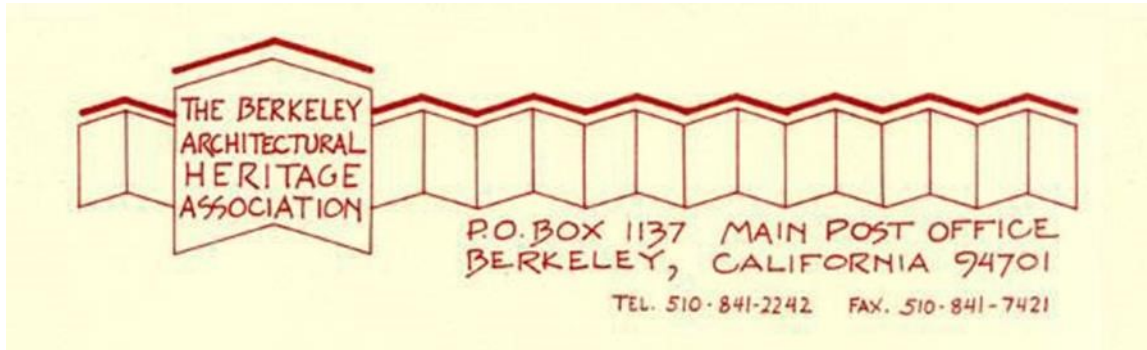
Table C-3 Likely Sites - Entitled Projects since 2018 includes many projects that were initiated in 2016–2019, and even one project that was initiated in 2015. In addition to a significant number of these projects having been counted in past APRs (see above), the fact that these projects have been in process for so long should merit extra scrutiny with respect to whether the projects can be anticipated to be permitted and built within the 6th Cycle—or at all.

**Conclusion**

I want to again thank staff in the Planning Department and with the consultant, both of whom are continuing to listen to and balance many diverse voices and perspectives as this process moves forward. All of you have been extremely forthcoming and generous with your time, and I'm happy to discuss this further and answer any questions you may have for me.

Sincerely,

Lori Droste  
*Berkeley City Councilmember, District 8*



October 24, 2022

Justin Horner  
Associate Planner  
Land Use Planning Division  
City of Berkeley  
1947 Center Street, 2<sup>nd</sup> Floor  
Berkeley, CA 94704

Re: Comments to City of Berkeley's Revised Housing Element Update

Dear Mr. Horner:

I am writing to you on behalf of the Berkeley Architectural Heritage Association (BAHA) to express our serious concerns regarding the City of Berkeley's 2023-2031 Revised Housing Element Update and Draft Environmental Report (Revised Housing Element Update and RHEU). Our comments address the defects in the promulgation of this ill-advised scheme, as well as the substance of its, now revised, content.

Since 1974, our organization has advocated for the preservation of the wonderful legacy of architecture, history and aesthetics that enrich the City of Berkeley. Our diverse membership of over 1200 citizens includes renters, homeowners, Berkeley activists, architects, historians, professors, students, old and new residents, business owners and retirees. What we have in common is concern for the past and future of Berkeley and a desire to see that, as things change, these changes fit within the pioneering, creative, and often socially revolutionary architecture that typifies our wonderful City. They also want to see that new development respects the existing architecturally significant structures, streetscapes and landscapes that make Berkeley unique.

BAHA believes that this Revised Housing Element Update will be used by outside developers to destroy much of what makes Berkeley special, including its inclusive family neighborhoods

where renters and homeowners have co-existed since 1876. The many articles in the *San Francisco Business Times* and other pro-private development publications about how Berkeley is rolling out the red carpet for real estate developers who plan to construct high-rise, mixed-use commercial developments undermine the City's stated purpose of creating housing equity in its latest RHEU. Put simply, we don't believe any of the high-minded promises floated in the RHEU, which we regard as cynical attempts to mask what is otherwise a massive landgrab by private developers to extend their reach into the traditional residential neighborhoods in Berkeley. This residential area landgrab has the very real possibility of uprooting the last vestiges of our diverse city and destroying its wonderful existing structures and outdoor spaces.

The choice of city planners to exceed the state required housing element by over 7000 units--almost double what state law mandates-- is unjustified and highly irresponsible. Not only can Berkeley's existing infrastructure not accommodate the proposed level of housing growth, but this proposed level of development will also necessarily exacerbate the very real threats to life and property endemic in the City at present. As explained below, there is no guarantee in the RHEU-- notwithstanding the high-minded rhetoric -- that much if any of the new proposed housing will be realistically available to lower income residents, the working poor, or needy families. The RHEU anticipates that 74% of new planned "in the pipeline" units will be for moderate or above moderate income residents. (RHEU C-2.) As for units dedicated to low income residents, the time limits built into the scant number of housing density bonus units mean even the few that may be created can revert to market rate after the relevant low-rent period has expired.

Although it is lengthy, the RHEU contains very little information about the most important part of the proposed plan, namely where this new housing will be built. Table 5.4 asserts that planners found sites for 11,935 units, including 7,310 units on "opportunity sites." Figure 5.2, "Residential Site Inventory," designates numerous "opportunity sites," with no explanation as to the basis by which these parcels were identified and little information on the structures that exist on and adjacent to these locations. The RHEU states only that planners use "objective criteria" and "local knowledge," to select the opportunity sites (RHEU 100). The description of what planners did -- offered at page C-14 -- is likewise uninformative: they looked at an "interactive online web mapping platform" and annotated the maps, "annotating existing use and providing additional justification for consideration." RHEU C-14. Exactly what constitutes "additional justification" was not disclosed. Because Figure 5.2 fails to identify city landmarks, parks, schools, and open spaces, it is virtually impossible to tell the impact of these "opportunity sites" within the given neighborhoods, much less assess the basis upon which they were selected. For example, without an overlay of AC Transit routes, it is impossible to tell which of the sites -- -pipeline and opportunity -- are near public transportation. Figure 5.1 is similarly flawed. Rather than provide street addresses for the "opportunity sites," the RHEU provide APNs, which makes identifying existing structures and adjacent structures very difficult for a dedicated reader and impossible for



the average member of the public. The absence of information about this key aspect of the RHEU is both striking and highly suspicious.

As for landmarked properties, parks, and open spaces, all are effectively ignored. Notwithstanding the fact that several landmarked and landmark eligible properties are earmarked for demolition under the RHEU plan, the cumulative impact of these demolitions is not examined. Likewise, the individual and cumulative impacts on parks, creeks, and open spaces near the new dense planned developments are ignored.

### **RHEU & DEIR Fail to Consider Alternate Sites for Construction in High Fire Danger Zones**

By proposing significant housing growth in areas already challenged by climate change (see Figure 5.2) – including areas of increased fire danger – without performing the required analysis of alternative building sites, city planners have failed to satisfy basic legal requirements thereby undermining their overriding consideration findings. Among other things, the RHEU contemplate new, expansive high-density development in already densely populated hillside areas where narrow winding streets are the norm. These plans, which are in Very High Fire Severity Zones, necessarily increase the fire danger to residents of these areas both directly (by inhibiting already strained evacuation routes and straining existing utilities that are in many cases decades past their useful life) and indirectly (by necessitating the cutting of old growth trees and increasing pollution due to construction and tail pipe emissions).

At present, in the event of a large earthquake on the Hayward fault or large fire in the Berkeley hills, Berkeley's current fire services will be unable to save either life or property in the Very High Fire Severity zoned areas and the Hillside Overlay more generally. City officials have acknowledged this potential catastrophic scenario in their communications with CERT groups, filings in connection with UC's LRDP, and community meetings over the past few years. Increasing development in these zones will only exacerbate the disaster waiting to happen. The RHEU's failure to consider alternate building sites in light of the present situation renders the overriding consideration findings null and void. The DEIR is similarly flawed and, therefore, must be redone to address these issues and evaluate alternate sites.

### **Failure to Consider Aging Infrastructure and Impact of Development on Same**

The law requires that the city consider the analysis of governmental constraints on the improvement and development of housing. Nowhere in the RHEU does the City address the adequacy of the City's aging existing infrastructure – including emergency services, emergency service access routes, sewer lines, waterlines -- and private utility infrastructure to support its existing population much less the proposed population growth and development density contemplated in the RHEU. The fact that some areas of the city still used the original hollowed

out Redwood trees for underground sewage should cause the public to question whether city infrastructure really can accommodate the thousands more units than called for by state law.

City officials have admitted in connection with Measure L that existing infrastructure –including roads and sewers – are failing and or soon will fail completely absent an infusion of cash via the proposed bond measure. Neither the RHEU nor the DEIR adequately address the impacts of the proposed housing elements on the city infrastructure over the next 10 years. Without doubt problems with the existing infrastructure constitutes a housing constraint. By failing to address this very real constraint, the RHEU and DEIR are demonstrably inadequate.

### **RHEU and DEIR Fail to Consider Impacts on Landmarked and Historic Structures and Areas**

Much of Berkeley’s existing housing stock is in aging buildings, some of which are landmarked, historic and/or rent controlled. The RHEU acknowledges this fact. Significantly city planners favor demolishing older structures where the floor area ratio on the lot is small. As long as a building was over 40 years old and its parcel “is underutilized based on existing Floor Area Ratio (FAR),” planners felt free to designate a property an “opportunity site,” namely one that could be demolished in favor of more dense housing. Their justification for disfavoring older houses and designating them as “opportunity sites” was that, “Buildings older than 30 years typically require significant systems upgrades and often do not meet ADA requirements.” Under this logic, many of the city’s landmarked houses could be under the proverbial chopping block. Moreover, creating denser housing on lots where older houses have taken up little lot space (stated as FAR) likely will mean removing mature trees and gardens.

Nowhere does the RHEU provide the required and promised analysis of this existing housing stock at the street or neighborhood level. Instead, the RHEU promises that at some point the future – with no dates provided – a survey of existing structures will be undertaken. We are told that this “survey” will have some connection to the Landmarks Preservation Commission (LPC), but no specifics are provided.

Despite these empty promises of a future survey, the RHEU makes many ill-informed assumptions about Berkeley’s existing housing and ignores the impacts of the proposed new construction on the existing housing where Berkeley citizens are living and working every day. By way of example, the RHEU ignore the importance of single-family homes in the San Pablo Park area to the economic empowerment of generations of Berkeley’s African American residents and the more recent trend of gentrification and densification (tearing down to build up) of that area that is decimating that once thriving community.

Likewise, the RHEU maps potential development sites without indicating on the maps the proximity to existing and potential city landmarks. Because the city’s wonderful, landmarked buildings are not even mentioned in the RHEU or reflected on the maps to showing potential

development sites, city planners have fundamentally misled the public about the true impacts of their development schemes.

The RHEU also makes unsupported assumptions about wealth, class, and race within the Berkeley neighborhoods where development is proposed. These assumptions are misleading and mask the very real impacts that the proposed development will have in the existing fabric of this City. Before asserting that any proposed development will make Berkeley “more equitable,” city planners must analyze (a) the current racial and economic makeup of the Berkeley neighborhoods where development is proposed (ideally over a 40-year period) and (b) the safeguards or guarantees that the proposed developments will make that neighborhood “more equitable.” Generalities must be avoided; instead, planners must provide actual statistics including race, age, disability, and gender, to support their assertions that the creation of largely market rate housing will make a given neighborhood more diverse and, where they claim it, more economically accessible.

### **Junk-in/Junk Out: the Failed RHEU Planning Process**

Because the process by which the RHEU was created was outcome-directed, slapdash, and deeply misleading, we regard the RHEU as fundamentally flawed. We also view the comment process with deep cynicism and believe it to be fundamentally illegitimate given how weighted towards further large-scale development the dialogue has been to date.

The RHEU and DEIR should have addressed how the city can fulfill the state’s mandated housing element separate and apart from the much larger, more ambitious program proposed. Because these documents do not set out the option of fulfilling the minimum state requirement, Berkeley residents have no means of comparing the proposed large-scale development with that actually required under the new state housing mandates. For example, residents may have preferred a housing plan that satisfies the state mandate but that allows additional units to be built in future if certain parameters have been met. By failing to set out a plan for meeting the minimum housing construction within the state mandate, the RHEU and DEIR fail to provide important benchmarking.

The RHEU promotes large-scale residential development on the basis that it will generate needed low-income housing, yet upon careful examination, little low-income housing is guaranteed. Instead, planners have made aspirational projections as to who will be able to afford the projected units without fully disclosing the lack of guarantees that the units will indeed be available to lower income residents. Nor is there any meaningful analysis of the impact of the proposed development on existing lower cost housing. As noted above, the RHEU lacks actual demographic statistics for each impacted neighborhood. It also fails to provide an analysis of the

demographics of the newly created units. Absent this baseline data, its statements about impacts on existing and future housing stock are flawed and without proper foundation.

BAHA remains disheartened that the needs of existing Berkeley residents, who favor human-scale structures that blend with existing buildings and can house families and multi-generational cohorts, have largely been ignored in favor of dense high-priced developer specials for (largely) single commuters or students many of whom reside in Berkeley for only part of the year. Berkeley's recent housing building boom has largely been high-cost student housing. While the new \$2000- \$10,000/month apartments may fulfill some UC students' needs, this is hardly the kind of housing that the average Berkeley citizen can afford. Furthermore, most of these new apartments do not feature layouts and floor plans that can easily be occupied by a multi-generational family. Instead, they are designed to be occupied by a specific type of person – a single student living alone or with other students. By developing units and marketing units to students (who necessarily will occupy their units only when enrolled as a student), the large out-of-state private dorm developers are effectively doing an end-run around Berkeley's rent control. This practical reality is a far cry from the housing equity for existing and new long-term residents that Berkeley city planners are touting in the RHEU.

BAHA recommends that city planners go back to the drawing board. At a minimum they must:

- Provide a meaningful analysis of alternate sites for constructing housing slated to be built in RH-1 and other fire zones;
- Evaluate the constraints on housing overall including the existing, failing city infrastructure;
- Evaluate the impact of the proposed development on city infrastructure;
- Evaluate the impact of building the proposed additional housing in areas where emergency evacuation is difficult and/or the existing fire risk is high;
- Provide a thorough analysis of existing housing stock on a neighborhood-by-neighborhood basis rather than relying on generalities;
- Provide support, on a neighborhood-by-neighborhood basis, for their assertions that planned housing will make housing in each neighborhood more "equitable";
- Explain what "objective criteria" were used to identify the opportunity sites;
- Identify the opportunity sites by address and describe the cultural and environmental impacts of developing at these addresses;
- Provide information about the proximity to landmarks, potential landmarks, and historic areas and the impacts on those landmarks of the proposed developments;
- Be transparent as to the existence or lack of guarantees that any given proposed development will have low-income housing;
- Provide a plan for meeting the state mandated new housing so that citizens can better understand the costs and benefits of constructing more than the mandated units.

Sincerely,

*Leila Moncharsh*

Leila Moncharsh  
President, BAHA

Attachment

AS:fc

cc: Berkeley Mayor and City Council  
Berkeley City Attorney  
Berkeley Landmarks Commission  
Berkeley City Attorney  
Berkeley Mayor and City Council  
Berkeleyside  
Daily Planet

### DOWNTOWN PUBLIC REALM

As shown in Figures 9 and 10, the public realm in the Downtown blocks adjacent to campus has the potential for transformative change in the near future. University owned sites occupy roughly half of the street frontage, and most of these sites are proposed to be redeveloped within the timeframe of the

2009-2019



Figure 10. Aerial view of the west end of the Campus Park at its interface with Downtown Berkeley.



**DOWNTOWN PROJECTS: ART MUSEUM AND CENTER STREET**

The sketch shows how the new Art Museum would relate to Center Street. The main entrance, the museum store, and the café face and activate the street, while street level windows provide a glimpse of the public galleries. The new conference hotel project, planned as a partnership with a private developer-operator, is shown in the foreground. The scope includes a hotel, a conference center, and a new executive education center operated by the Haas School of Business.



Figure 11. Center Street transformed by new Hotel & Executive Education Center (left) and new Art Museum (right).

**DOWNTOWN PROJECTS: GATEWAY BUILDING & UC GARAGE**

This project would also be a third party partnership. Gateway is planned as a flexible office building, used primarily as relocation space for campus units displaced from buildings undergoing seismic renovation. However, despite this prosaic use, Gateway occupies a prime corner at the west entrance to campus, and high quality design is imperative. The adjacent historic UC Garage, now used for bus storage, would be renovated for a public-oriented use, such as the campus visitor center now housed in the drab lobby of University Hall.



Figure 12. View from north of Gateway Building with renovated UC Garage in foreground.



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**From:** East Bay for Everyone <info@eastbayforeveryone.org>  
**Sent:** Tuesday, October 25, 2022 4:27 PM  
**To:** Housing Elements@HCD; Covello, Zoe; Housing Element  
**Subject:** Comment on Berkeley 2nd draft

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Berkeley does not have an email address on the Housing Element page for submitting comments, which is not great.

Comment is as follows:

We are disappointed to see insufficient progress in this updated Draft Housing Element. Rather than improving on the previous iteration to enable fair housing outcomes, this draft doubles down on significant methodological flaws that would fail to produce sufficient housing supply to meet growing demand, exacerbate cost burdens, and perpetuate spatial segregation.

For the following reasons, we believe the City of Berkeley's Draft Housing Element would be found **noncompliant** under state law:

In "Figure 5.2 Residential Sites Inventory and Table C-10: Opportunity Sites – No Rezone Required," the Draft continues to show nonvacant sites that are currently thriving commercial locations, with no evidence provided to support the assumption of likely redevelopment during the Sixth Cycle. We remind the Planning Department that the California Department of Housing and Community Development (HCD) provides clear guidance on conducting the requisite analysis for this inventory: "The analysis must describe the methodology used to establish the development potential and consider all of the following: *1) the extent existing uses may constitute an impediment to additional residential development, 2) the jurisdiction's past experience converting existing uses to higher density residential development, 3) the current market demand for the existing use, including an analysis of any known existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, 4) development trends, 5) market conditions, and 6) availability of regulatory and/or other incentives, such as expedited permit processing and fee waivers or deferrals.*"

We urge Berkeley to revisit these assumptions by closely following HCD's Housing Element Site Inventory Guidebook pursuant to California Government Code Section 65583.2. Given that several major grocery stores remain in the site inventory, it is disappointing to see this Draft omit the obvious "current market demand for existing use" from its analysis. The addition of CoStar ratings and walkability scores, while helpful, still does not meet the evidentiary standard set forth under Housing Element law to assume feasible and likely redevelopment.

On a positive note, we are heartened to see more robust analysis of the City's efforts to meet Affirmatively Furthering Fair Housing (AFFH) requirements. However, the Draft argues that it "exposes lower income households to high resource areas and therefore affirmatively furthers fair housing," but given that the flawed assumptions in the City's opportunity site inventory has not been corrected, this is still a dubious assertion to make. For example, as we noted in our previous letter, there is no indication that the CVS located at 2655 Telegraph Ave will be redeveloped in the near future, particularly for 100% Below Market-Rate housing. To the extent that sites such as these are expected to provide lower income households with stable housing in high resource areas, the assumption that this will affirmatively further fair housing is not realistic.

To make Berkeley's integration efforts more viable, we urge the Planning Department to revisit its Residential Objective Standards for Middle Housing and eliminate proposed density caps to allow the developer to choose to deliver more,

smaller units or fewer larger units. While the most recent draft Standards could effectively be a downzoning, this program could offer real hope for housing that is "affordable by design," thus lessening cost burdens and reducing spatial segregation. For the Middle Housing program, the average unit size in new multifamily projects should not be over approximately 750-900 square feet to achieve this goal.

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**From:** Megan Nguyen <megan@ebho.org>  
**Sent:** Wednesday, October 19, 2022 2:11 PM  
**To:** Housing Element  
**Subject:** Timeline re: Housing Element Update

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Hello,

Thank you for yesterday's update with the Revised Draft available for public review, and we appreciate the ability to view the tracked changes. EBHO has a few clarifying questions regarding the upcoming timeline -

- HCD's 90-day initial review period concludes on November 8. As of now, the City has not received a review letter from HCD, correct? Are there preliminary HCD comments that were taken into account in this revised draft, or were the revisions solely based on public input?
- Will there be an additional revision period after receiving the initial HCD letter of review? *If so, we suggest the City provide a full 30-day public comment period, rather than the legal minimum of 7-days -- as that is clearly not a sufficient time for the public to review and respond to a 600+ page document.*
- When HCD comments are received, how is the City planning to schedule and publicize community workshops and City Council work sessions to review the HCD feedback, and solicit public input? We strongly urge that this happens prior to developing the next draft of the Housing Element.

Thank you in advance for your response to these questions. We understand that the City is also hosting office hours next week, but felt it was pertinent to know these details sooner rather than later.

Lastly, we want to acknowledge and commend the City on what has been a very extensive public outreach process to inform the public about the Housing Element Update and solicit public input. We look forward to hearing from you.

--

Megan Nguyen  
Policy Associate | she/her/hers  
408-649-9354 (cell) | [megan@ebho.org](mailto:megan@ebho.org)  
[East Bay Housing Organizations](#)  
538 9th St. Suite 200 Oakland, CA 94607

**Browse EBHO's rational resources in [The Study Room](#). Now updated and expanded for 2022!**

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**From:** kelly hammargren <kellyhammargren@gmail.com>  
**Sent:** Tuesday, October 25, 2022 10:42 PM  
**To:** Horner, Justin; Klein, Jordan; Wu, Grace; Covello, Zoe  
**Subject:** Response to Revised Housing Element

**Follow Up Flag:** Follow up  
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During the Housing Element Office Hours on Monday October 24, 2022, Grace Wu stated that the responses to the housing element could be submitted up until 11:59 pm on Tuesday, October 25, 2022 and that using the online form is not required.

I am choosing not to use the housing element online form as I find the personal data required to submit the form invasive and there is no explanation how personal and financial information will be used, nor is there any assurance that personal data required in the form will remain protected and private. Usually responses become public. I am a Berkeley resident and I live in central Berkeley.

Chapter - 1 It is very disappointing the Housing Element Team did not meet with the Friends of Adeline, the diverse neighborhood organization representing the people of south Berkeley especially long time members of the Black Community. The team did not present to the Berkeley Neighborhoods Council. The Berkeley Neighborhoods Council has well attended monthly meetings with attendees from across the city. Nearly every agenda of the Berkeley Neighborhoods Council has at least one item related to housing and yet apparently they were never contacted when other organizations were. The preparers did not meet with the Berkeley Tenants Union. These three organizations represent the community that is most impacted by gentrification.

Chapter 2 - looking at the charts and then the goals, large families, do large families make up such a small percentage of Berkeley residents, because of housing mix or is it because the birth rate is declining nationwide and tho, the charts in Chapter 3 show slight increase in household size from 2.25 to 2.44, the goal to build housing for large families is out of line with actual household size. As of late some developers catering to students are building units with 4 and 5 bedrooms these are not "large extended families" these are overpriced units for doubled up students - two to a bedroom to make rent.

As for government constraints, the string of bills on housing signed into law negate the need for any further streamlining of the review process. It is already pretty short. Attending the Design Review Committee (DRC) and the Zoning Adjustment Board (ZAB) there is not endless review, especially with SB 330 which limits total meetings to 5.

As for accessible housing, anyone can get hit by a car, suffer a disabling injury or medical catastrophe, we would do better by updating building codes to incorporate accessible features in new housing from the beginning. As a regular attendee of DRC and ZAB this does not happen. Additionally, for disability access, the city would do better to have first floor units for the disabled instead of vacant commercial space. First floor units at the BART stations would be a vast improvement in accessible housing. As a RN, I am well familiar with the needs of persons with disabilities. Berkeley is not meeting this need in new construction.

Chapter 3 - The preparers did not generate the projected population growth for Berkeley, but it is clearly out of line with growth patterns for the city, area and state. It only makes sense if projected growth is based on large portions of the planet becoming uninhabitable and Berkeley becomes a destination for climate refugees or UCB triples the student admissions. Given the rate of global warming climate refugees is possible.

Just walking through neighborhoods seeing vacancy signs, especially signs that never go away, leads to the question, how accurate are the vacancy counts.

The decline of Black or African Americans in Berkeley to 7.7% of the population is alarming. Gentrification has hit the Black or African American community very hard.

There is a mismatch between resident income and the cost of housing. This should also be alarming. With a large stock of older housing, rent increases in older buildings is unjustified.

The characterization of older homes needing significant rehabilitation demonstrates a bias and lack of understanding and comprehension of the impact of construction on the environment and a lot of appreciation for the solid construction of older housing stock especially housing stock from early 1900s. There appears to be a focus in this section to demolish existing housing stock which indicates a disregard for the environment. There is nothing "green" about building. Attempts can be made to improve the performance of housing to use less resources and less energy, but to truly care for the environment, habitat and ecosystems, retaining existing housing is the most important action. New housing at the very least is built through extracting precious resources and cutting down forests. All housing, all buildings need upkeep and the most important resource is the one that is maintained with the least amount of destruction to the environment. Reuse of existing structures is another important focus.

Chapter 4 - 4.2.1 Infrastructure Constraints "EBMUD's water supplies are estimated to be sufficient during the planning period (2010 - 2040) in normal and single dry years." The quote clearly states sufficient water supply in NORMAL and SINGLE dry years. Do the preparers of the Housing Element not know California is in a multi-year drought and climate projections for the west are perpetual drought with occasional wet years. Did no one check the drought map <https://droughtmonitor.unl.edu/> the Bay Area including Berkeley is in severe drought. The entire state of California is in drought. The kind of growth projected in the HEU DEIR 47,433 population increase is not feasible without drastic change in water use and tight water rationing.

As for the EBMUD Main Water Treatment Plant (MWWTP) being sufficient to accommodate the anticipated residential development is wishful thinking. The EBMUD MWWTP is not currently doing the job. The harmful algae bloom of *Heterosigma akashiwo* in August 2022 with a huge die - off of fish in the bay and Lake Merritt was possible through warming bay water and nutrients/Nitrogen released from water processing plants. EBMUD was one of the top two named culprits in the 10-24-2022 webinar by Baykeeper on the algae bloom and causes. Water processing plants need upgrading to prevent another like algae bloom in the future.

Chapter 5 - Housing should not be added in the fire zones, fault line and hillside slide areas.

Appendix A - It is concerning that Lawrence Moore Manor and Stuart Pratt Manor are on annual renewal, none of the rest with expiring affordability expire within the time frame of this housing element.

kelly hammargren

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**From:** kelly hammargren <kellyhammargren@gmail.com>  
**Sent:** Tuesday, October 25, 2022 10:48 PM  
**To:** Horner, Justin; Klein, Jordan; Wu, Grace; Covello, Zoe  
**Subject:** Re: Response to Revised Housing Element

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

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another addition on drought from WTF Just Happened today in response to the housing element and the statement from EBMUD there is sufficient water for residential growth.

**More than 80% of the continental U.S. is experiencing unusually dry conditions or drought** – the largest proportion since NOAA began tracking 20 years ago. Record-low water levels on the Mississippi River are making it difficult to move cargo by barges, while the drought across the Mississippi Basin is allowing salt water to enter from the Gulf of Mexico, which could contaminate drinking water. In the West, the 22-year megadrought is now considered the driest in at least 1,200 years, and a recent study found that 42% of the drought is attributable to human-caused climate change. Last week, the National Weather Service projected another warm and dry winter for California, which follows the state’s three driest years on record. ([Politico](#) / [Washington Post](#))

kelly hammargren

To: Justin Horner, Grace Wu

From: David Ushijima

Cc: Alene Pearson, Jordan Klein

Date: Oct. 25, 2022

Re: **Comments and Feedback on the Revised Housing Element:**

Important changes appear in the HE revisions which were not presented or discussed in any previous public discussions or workshops. Though City officials and staff constantly tout their efforts to maintain the public process, many important and substantive changes are buried in the revisions of this 500-page document, which most of the public will not read.

1. The addition of 16,000 units to the City's RHNA numbers without any previous public discussion of the magnitude of the change appears to be a way for the City to allow for an excess of development which is not needed to meet the State RHNA goals. The process of burying these additional numbers does not follow the City's claims of open government.
2. The proposed Middle Housing plan (Program 29) is attempting to force By-Right approvals of higher height residential buildings in R2, R2A zones without implementing objective standards to protect blockage of sunlight to rooftop solar panels, residential living spaces, and yards. **Of the 770 units that this program proposes to create, none are affordable.** Given the identified capacities, **these additional housing units are not needed to meet the 9K RHNA goal.**
3. The **much needed process to develop objective standards for the larger 10+ unit mixed use residential buildings has now been postponed to December 2025** (Program 33: Zoning Code Amendment: Residential). Even though this set of objective standards was promised in the initial public workshops, it was never addressed until this change appeared buried in the HE revisions. Meanwhile a large number of 8-10-story mixed-use projects are being approved and built along commercial corridors like Shattuck Ave. and University Ave. which abut R2 residential neighborhoods. **Without objective standards for a proper transition which would include upper-story setbacks, and protections for rooftop solar panels, the negative impacts on those residential neighborhoods will be severe.**