



Lori Droste  
Vice Mayor, District 8

**ACTION CALENDAR**  
February 23, 2021

**To:** Honorable Mayor and Members of the City Council

**From:** Vice Mayor Lori Droste, Councilmember Terry Taplin,  
Councilmember Ben Bartlett, and Councilmember Rigel Robinson

**Subject:** Resolution to End Exclusionary Zoning in Berkeley

**RECOMMENDATION**

Adopt a resolution to state Berkeley City Council’s intent to end exclusionary zoning in Berkeley by December of 2022.

**CURRENT PROBLEM AND ITS EFFECTS**

Single family residential zoning has its roots in racist exclusionary zoning policy and leads to racial and economic segregation.

The nine-county Bay Area region is facing an extreme shortage of homes that are affordable for working families. The Metropolitan Transportation Commission illustrates the job-housing imbalance in a report showing that only one home is added for every 3.5 jobs created in the Bay Area region.<sup>1</sup> California ranks 49th in the United States for housing units per capita – only Utah creates fewer homes.<sup>2</sup> Governor Gavin Newsom has called for a “Marshall Plan for affordable housing” and has pledged to create millions of more homes in California to tackle the state’s affordability and homelessness crisis.

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<sup>1</sup> Metropolitan Transportation Commission. (2018). *Vital Signs*. <http://www.vitalsigns.mtc.ca.gov/>

<sup>2</sup> Woetzel, J., Mischke, J., Peloquin, S., and Weisfield, D. (2016, October). *A Toolkit to Close California’s Housing Gap: 3.5 Million Homes by 2025*. McKinsey Global Institute, <https://www.mckinsey.com/~media/McKinsey/Industries/Public%20and%20Social%20Sector/Our%20Insights/Closing%20Californias%20housing%20gap/Closing-Californias-housing-gap-Full-report.pdf>

In Berkeley, the median sale price of a home is \$1.4 million (as of January 2021) –an increase of 56% over the median sale price in December 2015 of \$895,000.<sup>3</sup> These escalating costs coincided with an increase of 14% in Berkeley’s homeless population from 2017 to 2019, and a 34% increase from 2015 to 2019 point-in-time counts.<sup>4</sup> These skyrocketing housing costs put extreme pressure on low-, moderate- and middle-income households, as they are forced to spend an increasing percentage share of their income on housing (leaving less for other necessities like food and medicine), live in overcrowded conditions, or endure super-commutes of 90 minutes or more in order to make ends meet.

### *Low-Income Households Cannot Afford to Live in Berkeley*

Recently, low-income households experienced the greatest increases in rent as a portion of their monthly income. The U.S. Department of Housing and Urban Development (HUD) defines "affordable" as housing that costs no more than 30 percent of a household's monthly income. Households are considered to be "rent burdened" when more than a third of their income goes toward housing costs. In Alameda County, rent burdens increased across all incomes but it increased most substantially for low- and very low-income households. The Urban Displacement Project reported that "[i]n both 2000 and 2015, extremely low-income renters were by far the most likely to experience severe rent burden, with nearly three quarters spending more than half their income on rent."<sup>5</sup>

Although residents of Berkeley passed Measure O in 2018 which substantially increased funding for affordable housing, low-income units are increasingly expensive to create. Low-income housing units typically cost well over \$500,000 to create and the demand for this type of subsidized housing exceeds the supply.<sup>6</sup> Without a substantial additional increase in funding, Berkeley will be increasingly challenged to create enough subsidized affordable housing to meet the demand. For example, roughly 700 seniors applied for the 42 affordable/subsidized units at Harpers Crossings in Berkeley. This

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<sup>3</sup> *Berkeley Home Prices and Values*. (2021, January). Zillow.

<https://www.zillow.com/berkeley-ca/home-values/>

<sup>4</sup> Applied Survey Research. (2019, September). *City of Berkeley Homeless Count and Survey, Comprehensive Report*. Everyone Home.

[https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDRReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDRReport_Berkeley_2019-Final.pdf)

<sup>5</sup> UC Berkeley’s Urban Displacement Project and the California Housing Partnership. (2015). *Rising Housing Costs and Resegregation in Alameda County, Urban Displacement Project*.

[http://www.urbandisplacement.org/sites/default/files/images/alameda\\_final.pdf](http://www.urbandisplacement.org/sites/default/files/images/alameda_final.pdf)

<sup>6</sup> Claros, M. (2020, March 20). *The Cost of Building Housing The Turner Center*, <https://turnercenter.berkeley.edu/construction-costs-series>

project cost \$18 million to build.<sup>7</sup> While Berkeley should continue to support subsidized housing, subsidized housing alone is insufficient to address the growing housing and homelessness crisis, especially considering the majority of low-income individuals only have access to non-subsidized affordable housing.

### *Middle-Income Households Can't Afford to Live in Berkeley*

In the Bay Area, those earning middle incomes are facing similar challenges in finding affordable homes. The Pew Research Center classifies middle income households as those with “adults whose annual household income is two-thirds to double the national median.” In 2018, middle income households were those earning approximately \$48,500 to \$145,500 for a household of three. The Bay Area is one of the most expensive areas, with a price level that was 31.6% higher than the national average. As a result, a Bay Area household needs a reported income of about \$63,800, or approximately \$15,000 more than the U.S. norm, to join the middle class.<sup>8</sup>

In the Bay Area, a family currently has to earn ~\$200,000 annually to afford the principal, interest, taxes and insurance payments on a median-priced home in the Bay Area (assuming they can pay 20 percent of the median home price of \$1.4 million up front).<sup>9</sup> This means that many City of Berkeley employees can't afford to live where they work: a fire captain (making \$144,000) with a stay at home spouse wouldn't be able to afford a home. Even a firefighter (earning \$112,000 annually) and a groundskeeper (making \$64,000), or two librarians (making \$89,000 each) couldn't buy a house.<sup>10</sup>

Berkeley Unified School District employees have recently been advocating for teacher housing. Unfortunately, the housing options for teachers are insufficient for the overwhelming need. According to a recent Berkeley Unified School District (BUSD) survey, 69% of teachers or staff who rent believe that high housing costs will impact their ability to retain their BUSD positions.<sup>11</sup> Since individual K-12 teacher salaries average ~\$78,700, the majority of teachers are not classified as low-income, according to Housing and Urban Development guidelines.<sup>12</sup> As a result, many cannot qualify for

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<sup>7</sup> Flood, L. (2018, January 18). *Berkeley low-income seniors get a fresh start at Harper Crossing*. Berkeleyside,

<https://www.berkeleyside.com/2018/01/18/berkeley-low-income-seniors-get-fresh-start-harper-crossing>

<sup>8</sup> Ibid.

<sup>9</sup> *The salary you must earn to buy a home in the 50 largest metro*. (12/20/2020). HSH.

<https://www.hsh.com/finance/mortgage/salary-home-buying-25-cities.html#>

<sup>10</sup> *Job Descriptions*. (2021) City of Berkeley Human Resources,

<http://agency.governmentjobs.com/berkeley/default.cfm?action=agencyspecs&agencyID=1568>

<sup>11</sup> *BUSD Employee Housing Survey* (2017, November 17). Berkeley Unified School District.

<https://documentcloud.adobe.com/link/track?uri=urn%3Aaaid%3Ausc%3Adfd74865-9541-4ff8-b6a6-4dcbd30acdc3>

<sup>12</sup> *Teacher Salaries*. (2020). Education Data Partnership,  
<http://www.ed-data.org/district/Alameda/Berkeley-Unified>

affordable housing units. Since middle-income individuals and families can't qualify for affordable housing units and very few subsidies are available to help, the vast majority have to rely on non-governmental subsidized methods and the private market to live in the Bay Area.

### *Families Are Struggling to Live in Berkeley*

Many families are fleeing the Bay Area due to the high cost of living. According to a study by the Turner Center for Housing Innovation, the income and racial patterns of out-migration and in-migration indicate that “the region risks backsliding on inclusion and diversity and displacing its economically vulnerable and minority residents to areas of more limited opportunity.”<sup>13</sup> Rent for a two-bedroom apartment in Berkeley costs approximately \$2,070/month<sup>14</sup> while the median child care cost in Alameda County is \$1,824 a month, an increase of 36% in the past four years.<sup>15</sup> Consequently, most families are paying well over \$46,000 for living and childcare expenses alone.

### *Homelessness is on the Rise in the Bay Area*

High housing costs also lead to California having among the highest rates of poverty in the nation at 17.2%.<sup>16</sup> Consequently, homelessness is on the rise throughout California. The Bay Area has one of the largest and least-sheltered homeless populations in North America.<sup>17</sup> The proliferation of homeless encampments—from select urban neighborhoods to locations across the region—is the most visible manifestation of the Bay Area's extreme housing affordability crisis. According to the 2019 point-in-time count, Berkeley had approximately 1,108 individuals experiencing homelessness on any given night.<sup>18</sup> In order to act in accordance with best practices research on alleviating homelessness and help homeless individuals get housed, the City needs to create more homes.<sup>19</sup> Tighter housing markets are associated with higher rates of homelessness,

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<sup>13</sup> Romem, I and Kneebone, E. (2018). *Disparity in Departure: Who Leaves the Bay Area and Where Do They Go?* Turner Center. <https://turnercenter.berkeley.edu/disparity-in-departure>

<sup>14</sup> Chen, C. (2021, January 27). *San Francisco Bay Area Metro Report*. Zumper. <https://www.zumper.com/blog/san-francisco-bay-area-metro-report/>

<sup>15</sup> D'Souza, K. (2019, February 3) *You think Bay Area housing is expensive? Child care costs are rising, too*. The Mercury News <https://www.mercurynews.com/2019/02/03/you-think-bay-area-housing-is-expensive-childcare-costs-are-rising-too/amp/>

<sup>16</sup> Fox, L. (2020, September) *The Supplemental Poverty Measure 2019*, The Census. <https://www.census.gov/content/dam/Census/library/publications/2020/demo/p60-272.pdf>

<sup>17</sup> Turner, M. (2017, October 23). *Homelessness in the Bay Area: Solving the problem of homelessness is arguably our region's greatest challenge*. SPUR: Ideas and Action for a Better City. <https://www.spur.org/publications/urbanist-article/2017-10-23/homelessness-bay-area>

<sup>18</sup> Applied Survey Research. (2019, September). *City of Berkeley Homeless Count and Survey, Comprehensive Report*. Everyone Home. [https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport\\_Berkeley\\_2019-Final.pdf](https://everyonehome.org/wp-content/uploads/2019/09/2019HIRDReport_Berkeley_2019-Final.pdf)

<sup>19</sup> *The Evidence behind Approaches that Drive an End to Homelessness*. (2017, December). United States Interagency Council on Homelessness

indicating that the creation of additional housing for all income levels is key to mitigating the crisis.<sup>20</sup> In the 1,000 Person Plan to Address Homelessness, Berkeley’s Health, Housing and Community Services staff also recommend that Council prioritizes “implementing changes to Berkeley’s Land Use, Zoning, Development Review Requirements for new housing with an eye toward alleviating homelessness.”

## **BACKGROUND**

### ***History of Exclusionary Zoning, Racial and Economic Segregation, and Current Zoning***

Single family residential zoning was born in Berkeley in the Elmwood neighborhood in 1916. This zoning regulation forbade the construction of anything other than one home per lot. In 1915, Berkeley’s City Attorney Frank V. Cornish wrote, “Apartment houses are the bane of the owner of the single family dwelling” while the consultant who penned Berkeley’s zoning ordinance stated, “[The] great principle of protecting the home against the intrusion of the less desirable and floating renter class.”<sup>21</sup> Subsequently, the Mason McDuffie Company’s use of Berkeley’s zoning laws and racially-restrictive property deeds and covenants prevented Black, Indigenous, and People of Color from purchasing or leasing property in east Berkeley.<sup>22</sup>

Mason-McDuffie race-restrictive covenants stated, “if prior to the first day of January 1930 any person of African or Mongolian descent shall be allowed to purchase or lease said property or any part thereof, then this conveyance shall be and become void...”<sup>23</sup> In 1916, McDuffie began lobbying for the exclusionary zoning ordinances in Berkeley to protect against the “disastrous effects of uncontrolled development”<sup>24</sup> and restrict Chinese laundromats and African American dance halls, particularly in the Elmwood and Claremont neighborhoods.<sup>25</sup>

After *Buchanan v Warley* in 1917, explicit racially restrictive zoning became illegal. However, consideration to maintaining the character of districts became paramount and Mason-McDuffie contracts still stipulated that property owners must be white.

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[https://www.usich.gov/resources/uploads/asset\\_library/evidence-behind-approaches-that-end-homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/evidence-behind-approaches-that-end-homelessness.pdf)

<sup>20</sup> Quigley, J.M., Raphael S., and Smolensky, E. (2001, February). *Homeless in America, Homeless in California. The Review of Economics and Statistics*

[https://urbanpolicy.berkeley.edu/pdf/qrs\\_restat01pb.pdf](https://urbanpolicy.berkeley.edu/pdf/qrs_restat01pb.pdf)

<sup>21</sup> Cornish, F.V. *The Legal Status of Zone Ordinances* and Cheney, C. *The Necessity for a Zone Ordinance in Berkeley*. Berkeley Civic Bulletin, May 18, 1915.

<sup>22</sup> Wollenberg, C. (2008) *Berkeley, A City in History*, University of California Press.

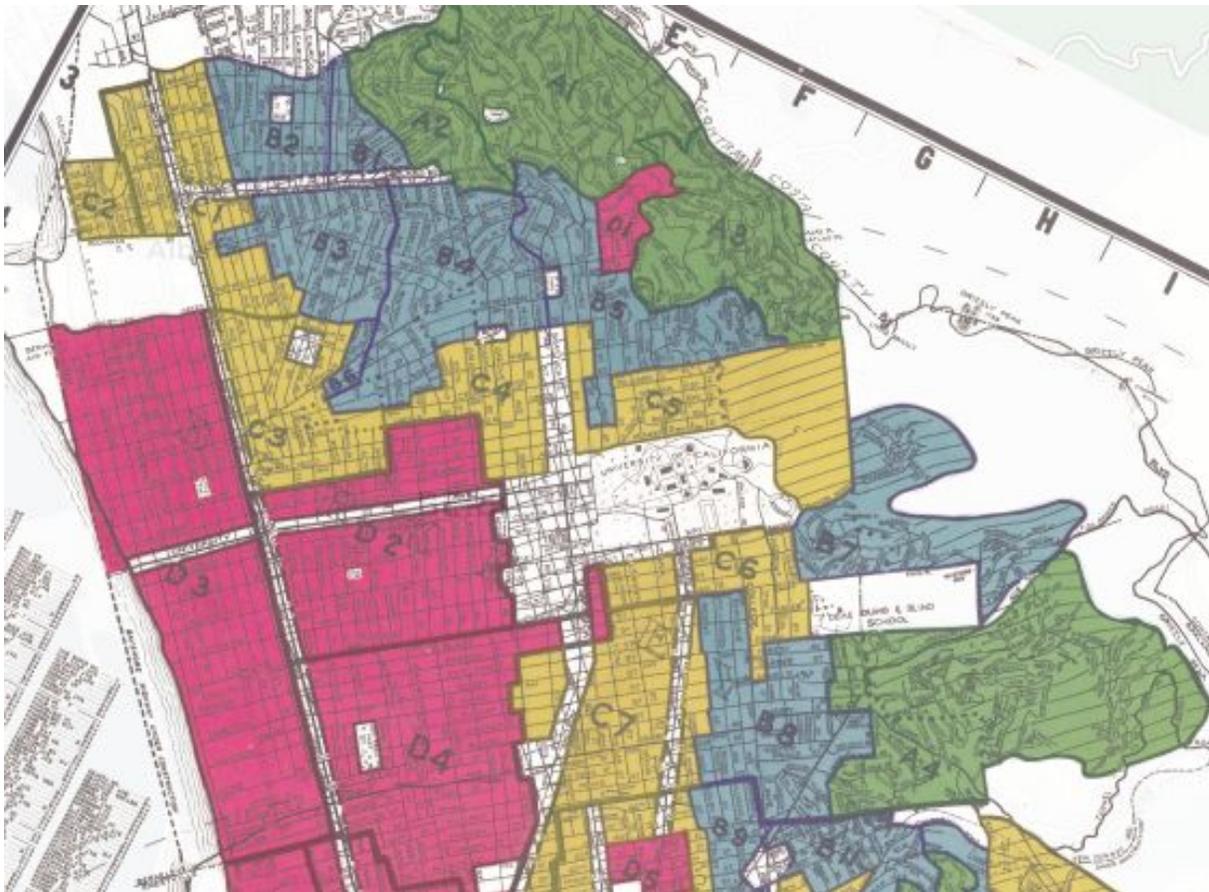
<sup>23</sup> Claremont Park Company Indenture. (1910).

<sup>24</sup> Lory, M. T. (2013). A History of Racial Segregation, 1878–1960. *The Concord Review* 24(2).

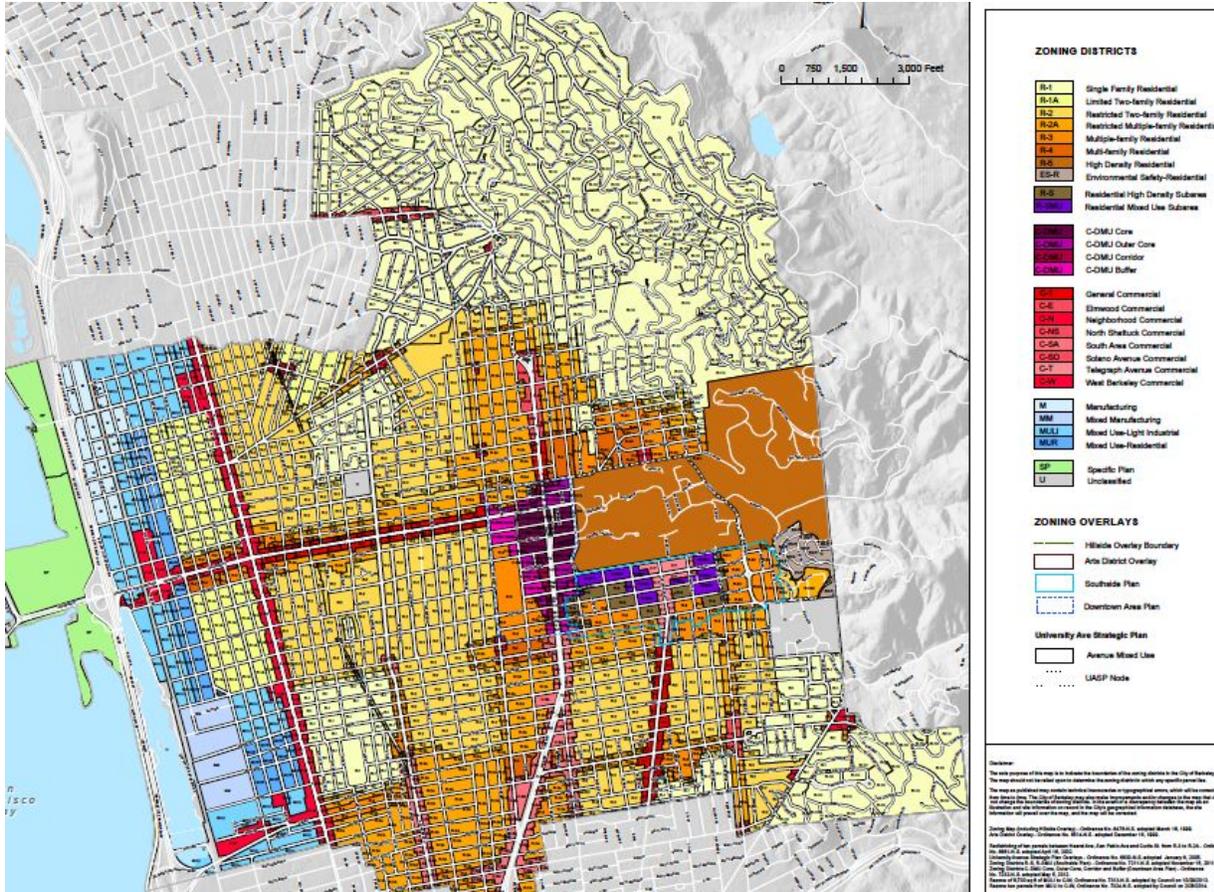
<http://www.schoolinfosystem.org/pdf/2014/06/04SegregationinCA24-2.pdf>

<sup>25</sup> Weiss, M. A. (1986). Urban Land Developers and the Origins of Zoning Laws: The Case of Berkeley. *Berkeley Planning Journal*, 3(1). <https://escholarship.org/uc/item/26b8d8zh>

In 1933, the federal government created a Home Owners Loan Corporation (HOLC), which produced residential maps of neighborhoods to identify mortgage lending risks for real estate agents, lenders, and others. These maps were based on racial composition, quality of housing stock, access to amenities and were color coded to identify best (green), still desirable (blue), definitely declining (yellow), and hazardous (red) neighborhoods. HOLC maps enabled discriminatory lending practices—later called ‘redlining’—and allowed lenders to enforce local segregation standards.<sup>26</sup> These maps extensively referenced single-family zoning as on par with racial covenants in appreciating property values, unaffordability and excluding people of color. For example, the Berkeley Hills was described as, “zoned first residential, single family, deed restrictions prohibit Asiatics and Negroes.”



<sup>26</sup> Mitchell, B. and Franco, J. (2018). *HOLC “REDLINING” MAPS: The persistent structure of segregation and economic inequality*. NCRC Opening Doors to Economic Opportunity, [https://ncrc.org/wp-content/uploads/dlm\\_uploads/2018/02/NCRC-Research-HOLC-10.pdf](https://ncrc.org/wp-content/uploads/dlm_uploads/2018/02/NCRC-Research-HOLC-10.pdf)



The images above compare a HOLC-era (Thomas Bros Map) map of Berkeley with a current zoning map. Neighborhoods identified as "best" in green on the HOLC-era map typically remain zoned as single family residential areas today. Red 'hazardous' neighborhoods in the first map are now largely zoned as manufacturing, mixed use, light industrial, or limited two family residential.<sup>27</sup>

Prior to the 1970s and the passage of the Neighborhood Preservation Ordinance, a variety of missing middle housing –duplexes, triplexes, and other smaller multi-unit building typologies–was still being produced and made available to families throughout the Bay Area, particularly in Berkeley. In 1973, the residents of Berkeley passed the Neighborhood Preservation Ordinance which severely restricted multi-unit housing in certain parts of Berkeley.

<sup>27</sup> Nelson, R.K, Winling, L., Marciano, R, Connolly, N. et al., *Mapping Inequality, Redlining in New Deal America*. American Panorama.  
<https://dsl.richmond.edu/panorama/redlining/#loc=10/37.8201/-122.4399&opacity=0.8&sort=17&city=oakland-ca&adview=full>

<b>Table 2-16: Age of Berkeley's Occupied Housing Units by Building Size</b>					
<b>Year Built</b>	<b>Units in Building</b>				
	<b>1</b>	<b>2-4</b>	<b>5-19</b>	<b>20+</b>	<b>Other</b>
2000 or later	261	96	120	1305	9
Built 1980 to 1999	903	391	671	824	45
Built 1960 to 1979	4369	1292	2382	2114	124
Built 1940 to 1959	4369	2448	2095	1182	45
Built 1939 or earlier	14107	4926	2158	1364	28
<b>Total</b>	<b>24,009</b>	<b>9,153</b>	<b>7,426</b>	<b>6,789</b>	<b>251</b>

Source: U.S. Census, ACS 2008-2012 5 Year Estimate, Table B25127

Until 1984, Martin Luther King Jr Way was known as Grove Street. For decades, Grove Street created a wall of segregation down the center of Berkeley. Asian-Americans and African-Americans could not live east of Grove Street due to race-restrictive covenants that barred them from purchasing or leasing property. While race-restrictive covenants no longer prohibit individuals from purchasing or leasing homes, most cities still retain the vestiges of exclusionary zoning practices.

The UC Othring and Belonging Institute recently released a series of studies on racial segregation and zoning practices which revealed that 83% of residential land in the Bay Area is zoned for single family homes. The purpose of these studies was to,

*Raise public awareness about the degree of segregation that persists in the Bay Area and the harmful effects that result from it. Despite the enduring significance of race and salience of racial inequality in the Bay Area, too often racial residential segregation itself is not a part of the discussion for remedying persistent racial disparities. In a period in which systemic and structural racism is a widespread societal concern, there is insufficient attention to the centrality of racial residential segregation to the production of racial inequality.<sup>28</sup>*

The authors found that the ramifications of restrictive zoning practices leads to a greater percentage of white residents, as recounted in KQED's "The Racist History of Single Family Zoning."<sup>29</sup> By banning less expensive housing options, such as duplexes, tri-/four-plexes, courtyard apartments, bungalow courts, and townhouses, in low-density,

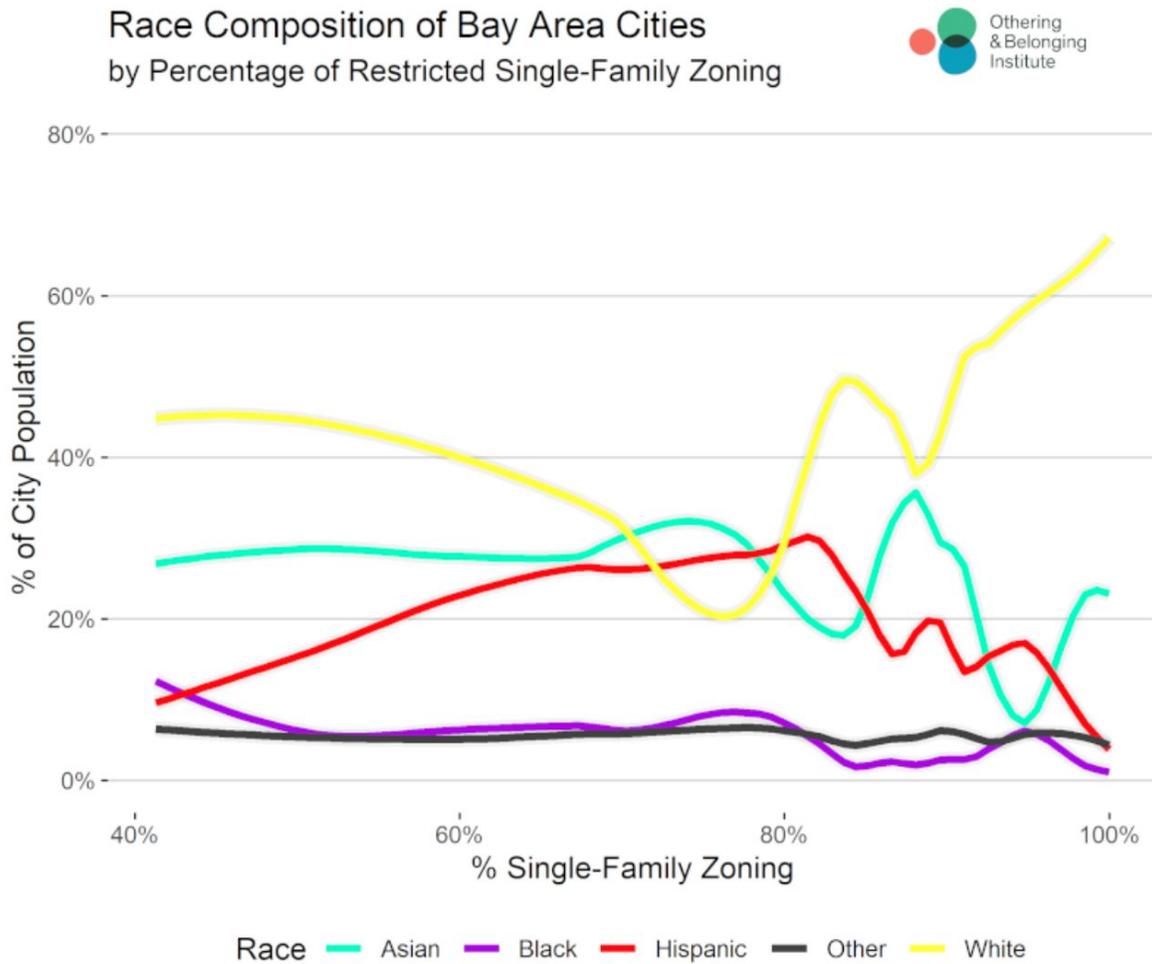
<sup>28</sup> Menendian, S., Gambhir, S. and Gales, A. (2020) *Racial Segregation in the San Francisco Bay Area, Part 5*. UC Othring and Belonging Institute.

<https://belonging.berkeley.edu/racial-segregation-san-francisco-bay-area-part-5>

<sup>29</sup> Baldassari, E. and Solomon, M. (2020). *The Racist History of Single Family Zoning*. KQED.

<https://www.kqed.org/news/11840548/the-racist-history-of-single-family-home-zoning>

“desirable” places in Berkeley, the current zoning map dictates that predominantly wealthier families will be able to live or rent in certain parts of Berkeley, mainly in North and East Berkeley.<sup>30</sup> Today, with the median home sale price at \$1.4 million<sup>31</sup> and the typical White family having eight times the wealth of the typical Black family, this de-facto form of segregation is even more pronounced.<sup>32</sup>



Furthermore, the intensity of land use coupled with opposition to development predicts a lower share of Black, Hispanic, and blue collar workers living in the area.<sup>33</sup> Communities

<sup>30</sup> Rothwell, Jonathan. “Land Use Politics, Housing Costs, and Segregation in California Cities.” *Turner Center for Housing Innovation*, September, 2019.

<http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

<sup>31</sup> Berkeley, CA Real Estate Market. (2021). *Realtor*.

[https://www.realtor.com/realestateandhomes-search/Berkeley\\_CA/overview](https://www.realtor.com/realestateandhomes-search/Berkeley_CA/overview)

<sup>32</sup> *Survey of Consumer Finances* (2020). Federal Reserve.

<https://www.federalreserve.gov/econres/scfindex.htm>

<sup>33</sup> Rothwell, J. (2019, September). *Land Use Politics, Housing Costs, and Segregation in California Cities*. Turner Center for Housing Innovation.

<http://californialanduse.org/download/Land%20Use%20Politics%20Rothwell.pdf>

with more restrictive land uses like single family zoning create cities with whiter residents. As Jessica Trounstine, political scientist and author of *Segregation by Design and Political Monopolies* states, “It is this maintenance of homogeneity that generates segregation across city lines.”<sup>34</sup>

According to the data mapped by UC Berkeley’s Urban Displacement Project, most of the low-income tracts in Berkeley are at-risk or have ongoing displacement and gentrification. Higher-income tracts in Berkeley are classified as ‘at-risk of exclusion’, currently feature ‘ongoing exclusion’, or are at stages of ‘advanced exclusion’. Degrees of exclusion are measured by a combination of data: the loss of low-income households over time, presence of high income households, being considered in a ‘hot housing market,’ and migration patterns. The Urban Displacement Project’s findings indicate that exclusion is more prevalent than gentrification in the Bay Area.<sup>35</sup> While Berkeley has created policies and designated funding to prevent gentrification, policies that focus on preventing exclusion have lagged.

University of California-Berkeley Professor Karen Chapple, anti-displacement expert and director of the Urban Displacement Project, stated that “the Urban Displacement Project has established a direct connection between the neighborhood designations by the Home Owners Loan Corporation (HOLC), and 75% of today’s exclusionary areas in the East Bay... Thus, this historic legacy, compounded by Berkeley’s early exclusionary zoning practices, continues to shape housing opportunity and perpetuate inequities today.” Not surprisingly, Chapple has indicated that zoning reform “has the potential not just to address the housing crisis but also to become a form of restorative or even transformative justice. There is no more important issue for planners to tackle today.”<sup>36</sup>

### ***Historic Redlining***

Redlining was a practice whereby certain neighborhoods or areas were designated as being high-risk for investment. These high-risk designations were literally marked on maps using red coloring or lines, hence “redlining.” The designations were typically applied to areas with large non-white and/or economically disadvantaged populations, and resulted in people who lived in or wanted to move to these areas being denied

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<sup>34</sup> Trounstine, J. (2020, February). *The Geography of Inequality: How Land Use Regulation Produces Segregation* Cambridge University Press. <https://www.cambridge.org/core/journals/american-political-science-review/article/geography-of-inequality-how-land-use-regulation-produces-segregation/BAB4ABDF014670550615CF670FF66016>

<sup>35</sup> Zuk, M., & Chapple, K. (2015). *Mapping Displacement, Gentrification, and Exclusion in the San Francisco Bay Area*. Urban Displacement Project. <http://www.urbandisplacement.org/map/sf>

<sup>36</sup> Chapple, K. (2019, February 25). Letter to Berkeley City Council in support of zoning reform. Berkeleyside. <https://www.berkeleyside.com/wp-content/uploads/2019/02/Letter-on-Council-Item-22-Chapple-2.25.19.pdf>

loans, or only being provided loans on much worse terms than their counterparts who could access non-redlined areas, due to their ethnicity or higher economic status.

Because redlining practices were contemporaneous with segregationist race-restricted deeds that largely locked communities of color out of non-redlined neighborhoods, most non-white households were effectively forced to live in areas where buying and/or improving residential property was extremely difficult. Consequently, low-income and non-white families were often locked out of homeownership, and all the opportunities for stability and wealth-building that entails. Therefore, redlining tended to reinforce the economic stagnation of the areas to which it was applied, further depressing property values and leading to disinvestment. Although redlining is no longer formally practiced in the fashion it was historically, its effects continued to be felt in wealth disparities, educational opportunity gaps, and other impacts.

One way in which the practice of redlining continues to be felt is through the continuation of exclusionary zoning. By ensuring that only those wealthy enough to afford a single family home with a relatively large plot of land could live in certain areas, exclusionary zoning worked hand in hand with redlining to keep low-income families out of desirable neighborhoods with good schools and better economic opportunity. Cities, including Berkeley, adopted zoning that effectively prohibited multi-family homes in the same areas that relied on race restrictive deeds to keep out non-whites, meaning that other areas, including redlined areas, were more likely to continue allowing multi-family buildings.

Ironically, because these patterns of zoning have persisted, many areas that were historically redlined are now appealing areas for new housing development precisely because they have continued to allow multi-family homes. Any area which sees its potential housing capacity increase will become more appealing for new housing development. When these changes are made in historically redlined areas where lower-income and minority households tend to be more concentrated, it is especially important to ensure those policies do not result in displacement or the loss of rent-controlled or naturally affordable housing units. Nevertheless, the City of Portland, which is undergoing similar zoning reform, has predicted that there will be a 21-28% reduction of indirect displacement for low-income renters.<sup>37</sup>

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<sup>37</sup>City of Portland Bureau of Planning and Sustainability. (2019, February). *Residential Infill Project Displacement Risk and Mitigation*  
[https://www.portland.gov/sites/default/files/2019-12/vol\\_3\\_appendix\\_b\\_displacement\\_risk\\_and\\_mitigation.pdf](https://www.portland.gov/sites/default/files/2019-12/vol_3_appendix_b_displacement_risk_and_mitigation.pdf)

### **Current Discourse on Exclusionary Zoning Regulations**

In 2019, Councilmembers Lori Droste, Ben Bartlett, Rashi Kesarwani and Rigel Robinson introduced Missing Middle Housing legislation in order to facilitate the construction of naturally affordable missing middle housing. The final legislation passed by Council was an agreement to **study** how the City of Berkeley can incorporate varying building types throughout Berkeley and address exclusionary practices. While the entire City Council voted unanimously to study this, the COVID-19 pandemic led to budget cuts which would have funded such a study. In July of 2020, Berkeley City Council additionally supported Senate Bill 902, which streamlines rezoning for missing middle housing in transit-oriented or jobs-rich areas.<sup>38</sup>

Exclusionary zoning laws also became a prevalent national topic during the 2020 Presidential campaign under the guise of “protect[ing] America’s suburbs.”<sup>39</sup> Celebrity Apprentice host and former President Donald Trump and his Housing and Urban Development Secretary Ben Carson expressed a concern that removing exclusionary zoning laws would prevent single family home ownership and “destroy suburbs” despite the fact that these reforms don’t bar single family home construction but allow the creation of duplexes, triplexes, and other multi-unit properties. Furthermore, exclusionary zoning practices were amplified with the termination of the 2015 Obama-era Fair Housing rule which outlawed discrimination in housing. In doing so, Trump stated that Democrats wanted to “eliminate single-family zoning, bringing who knows into your suburbs, so your communities will be unsafe and your housing values will go down.”<sup>40</sup> On the other hand, Democratic Presidential candidates embraced zoning reform, most notably Elizabeth Warren and Cory Booker. President Biden has also indicated that he plans to invest \$300 million in local housing policy grants to give communities the planning support they need to eliminate exclusionary zoning.<sup>41</sup>

In January 2021, the Association of Bay Area Governments voted to approve the implementation of Senate Bill 828 which was designed to address the extreme housing shortage across California. As a result, Bay Area cities will have to zone for 441,000 new homes. Berkeley will see a 19% increase — approximately 8,900 — in the number of homes for which it must zone.

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<sup>38</sup>Wiener, S. and Atkins, T. (2020) *Senate Bill 902*. California Legislative Information.

[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200SB902](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB902)

<sup>39</sup> Trump, D.J. and Carson, B. (2020) *We’ll Protect America’s Suburbs*. Wall Street Journal.

<https://www.wsj.com/articles/well-protect-americas-suburbs-11597608133>

<sup>40</sup> Kurtzleben, D. (2020, July 21). *Seeking Suburban Votes, Trump to Repeal Rule Combating Racial Bias in Housing*. National Public Radio

<https://www.npr.org/2020/07/21/893471887/seeking-suburban-votes-trump-targets-rule-to-combat-racial-bias-in-housing>

<sup>41</sup> “The Biden Plan for Investing in Our Communities Through Housing.” (2020)

<https://joebiden.com/housing/>

According to the U.S. Census American Community Survey, newly built missing middle housing like duplexes, triplexes, and fourplexes more often houses middle and lower income families in Berkeley, while single-family homes, no matter what year built, are exclusively higher income.

<b>Median household income, Berkeley &amp; Albany, by building age &amp; type</b>					
	Pre-1950	1950-1969	1970-1989	1990-2004	2005-
Single-family detached	148,590	139,295	107,081	131,004	148,835
Single-family attached	84,903	126,930	96,233	167,025	134,460
2-4 units	79,012	63,973	53,335	45,403	48,691
5-19 units	46,037	41,104	39,811	42,243	27,950
20+ units	25,628	42,319	41,387	23,585	40,518

Source: American Community Survey, 2014-18, Public Use Microdata Set, US Census.

### **ALTERNATIVE ACTIONS CONSIDERED**

Berkeley City Council previously authorized a study on missing middle housing. Due to the impending Housing Element adoption and rezoning mandated by new Regional Housing Needs Allocations, Council wanted to ensure that there was a willingness on Council to address and acknowledge the implications of single family zoning on affordability and racial and economic segregation. This resolution is a problem statement and asks Council to acknowledge the problems associated with single family zoning and state its intentions to lift the ban on multi-family homes. The operational details of *how* this will occur are still being deliberated at the Land Use and Economic Development Policy Committee and if passed, will be further refined at Council and the Planning Commission.

### **FINANCIAL IMPLICATIONS**

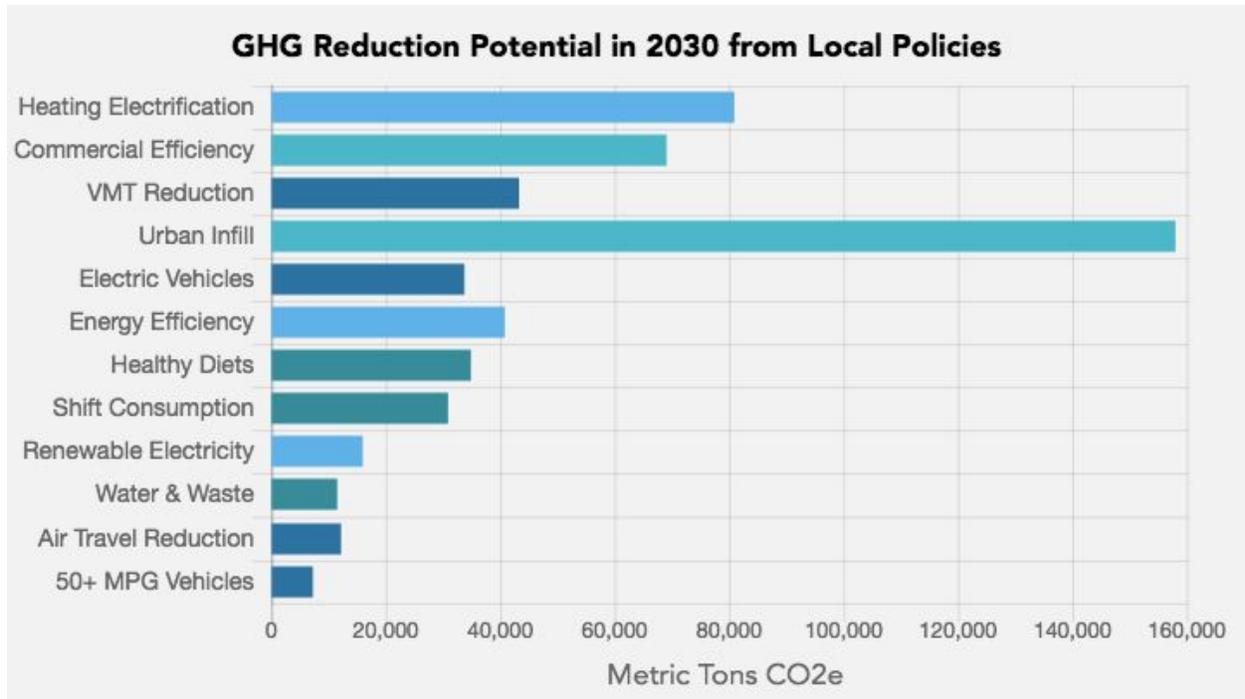
There are no financial implications in approving a resolution.

### **ENVIRONMENTAL SUSTAINABILITY**

In 2006, Berkeley voters adopted ballot Measure G for a call to action on climate change. In 2009, the Berkeley Climate Action Plan was written through a community-wide process and adopted by Council. Berkeley reiterated concern by declaring a climate emergency in 2018. Among other concerns, wildfires and sea level rise are constant ecological threats to our community. The City of Berkeley needs to act urgently to address this imminent danger. In 2018, climate researchers in Berkeley quantified local and state opportunities to reduce greenhouse gases from a “comprehensive consumption-based perspective.”<sup>42</sup> The most impactful local policy to

<sup>42</sup> Jones, C.M., Wheeler, S.M, and Kammen, D. (2018) *Carbon Footprint Planning: Quantifying Local and State Mitigation Opportunities for 700 California Cities*. Urban Planning (ISSN: 2183–7635). Volume 3,

potentially reduce greenhouse gas consumption by 2030 is urban infill. In short, Berkeley can meaningfully address climate change if we allow the production of more homes near job centers and transit.<sup>43</sup>



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<https://rael.berkeley.edu/wp-content/uploads/2018/04/Jones-Wheeler-Kammen-700-California-Cities-Carbon-Footprint-2018.pdf>

<sup>43</sup> Wiener, S. and Kammen, D. (2019, March 25). *Why Housing Policy Is Climate Policy*. New York Times. <https://www.nytimes.com/2019/03/25/opinion/california-home-prices-climate.html>

## RESOLUTION NO. XX

### DECLARING THE INTENT OF THE CITY COUNCIL TO ALLOW MULTI-FAMILY HOUSING IN RESIDENTIAL NEIGHBORHOODS THROUGHOUT BERKELEY

WHEREAS the City of Berkeley was the first city in the country to implement single-family zoning in 1916; and

WHEREAS the City of Berkeley's current zoning is still greatly influenced by maps developed by the federal government's Home Owners Loan Corporation which sought to maintain racial segregation through discriminatory lending practices; and

WHEREAS downzoning initiated by the passage of the Neighborhood Preservation Ordinance in 1973, restricted the creation of multifamily units in some residential zones; and

WHEREAS escalating income and wealth inequality and prohibition of apartments and multi-family homes in the City of Berkeley coincide with the most unaffordable neighborhoods and the origins of the City's affordability crisis starting in the late 1970s after the passage of Proposition 13; and

WHEREAS there is deeply racist history to zoning practices all over the country, particularly as a proxy for overt racial restrictions, and inequities still exist today as a result of redlining; and

WHEREAS exclusionary zoning has created de facto rather than de jure racial and economic segregation, which creates strong adverse effects in life outcomes for residents; and

WHEREAS California ranks 49th out of 50th in the nation for housing units per capita; and

WHEREAS California home prices and rents are among the highest in the United States; and

WHEREAS both market rate housing and subsidized housing, in addition to strong tenant protections and demolition controls, reduce displacement pressures; and

WHEREAS zoning reform does not ban single family homes but allows for a greater mix of home types and income levels in more Berkeley neighborhoods; and

WHEREAS zoning reform, when coupled with other policies, can reduce real housing cost-burdens for low- and middle-income households; and

WHEREAS, reforms to Berkeley's residential zoning must ensure that units subject to rent control are not lost due to demolition, that demolition is generally disfavored for environmental and contextual reasons, and that historically designated properties are protected in accordance with federal, state and local standards; and

WHEREAS, public safety, in particular in the face of earthquakes, fires, and sea level rise, many of which are exacerbated by climate change, is of critical importance; and

WHEREAS the League of California Cities called for cities to allow up to fourplexes in single family zones in their *Blueprint for More Housing 2020*;

NOW THEREFORE BE IT RESOLVED that the City of Berkeley registers its intent to allow for more multifamily housing throughout Berkeley; and

BE IT FURTHER RESOLVED that City Council will pursue zoning reform that takes into account the public safety in all parts of Berkeley, and

BE IT FURTHER RESOLVED that the City of Berkeley will undergo a robust community process before the adoption of any zoning changes in 2022, and

BE IT FURTHER RESOLVED that in neighborhood interiors that already contain a mix of housing types from single family homes to apartments, allow new housing within that existing range; and

BE IT FURTHER RESOLVED that the elimination of exclusionary zoning by 2022, in order to meet state mandated Regional Housing Needs Allocation requirements, must coincide with strong anti-displacement, tenant protections and anti-speculation measures; and

BE IT FURTHER RESOLVED that the City of Berkeley encourage inclusion of homes in all neighborhoods of Berkeley, to accommodate families in new and rehabilitated multifamily housing developments; and

BE IT FURTHER RESOLVED that the City of Berkeley will no longer ban multi-family housing, and by extension, affordable housing in certain parts of Berkeley; and

BE IT FURTHER RESOLVED, that as part of zoning reform, the Council and Planning Commission should consider methods such as division, contextual addition, and adaptive reuse over demolition, ensure that new development resulting from such changes does not demolish any rent-controlled or below market-rate housing, and explore incentives for projects to contribute to the need for affordable housing; and

BE IT FURTHER AND FINALLY RESOLVED, the City Council is fully committed to carrying out a robust community process, including residents of affected neighborhoods, in the development of zoning changes, as has been done in other cities that have initiated zoning reform.