



**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC
DEVELOPMENT COMMITTEE
REGULAR MEETING**

**Thursday, November 4, 2021
10:30 AM**

Committee Members:

Councilmembers Sophie Hahn, Rigel Robinson, and Lori Droste
Alternate: Councilmember Ben Bartlett

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Government Code Section 54953(e) and the state declared emergency, this meeting of the City Council Land Use, Housing, & Economic Development Committee will be conducted exclusively through teleconference and Zoom videoconference. The COVID-19 state of emergency continues to directly impact the ability of the members to meet safely in person and presents imminent risks to the health of attendees. Therefore, no physical meeting location will be available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL <https://us02web.zoom.us/j/81911497834>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and Enter Meeting ID: **819 1149 7834**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Land Use, Housing, & Economic Development Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

AGENDA

Roll Call

Public Comment on Non-Agenda Matters

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes – October 7, 2021

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval

From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)

Referred: April 26, 2021

Due: February 14, 2022

Recommendation: 1. Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels.

2. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage: a. ADU Universal Checklist. A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by all City staff to review ADU permit applications and by customers to understand code requirements. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. b. Accompanying User-Friendly Webpage. As a companion to the ADU Universal Checklist, the City should

also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include: i. A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; ii. Plan requirements, worksheets, and projected timelines for each step of the process; and iii. Consolidated up-to-date state and local regulations that are easy to understand.

3. Recommend that the City Manager consider adoption of the following two best practices: a. Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs and construction drawings that have already been approved by the City and are available to customers for a nominal fee to the architect. b. ADU Ally. Consider dedicating existing Planning staff member(s) time to the role of an "ADU Ally." The ADU Ally is a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Unscheduled Items

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

3. **Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals**
From: Councilmember Harrison (Author)
Referred: July 28, 2020
Due: February 3, 2022
Recommendation: Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.
Financial Implications: See report
Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

4. **Streamlining Toxic Remediation in Manufacturing Districts**
From: Councilmember Taplin (Author)
Referred: October 25, 2021
Due: April 16, 2022
Recommendation: Refer to the City Manager and Planning Commission several amendments to the zoning code in order to facilitate toxic remediation in manufacturing districts and to develop a streamlined process that would allow for one application process, rather than separate application processes for the City's Planning Department and the Toxics Division.
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Items for Future Agendas

- Discussion of items to be added to future agendas

Adjournment

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*Written communications addressed to the Land Use, Housing & Economic Development Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*



### COMMUNICATION ACCESS INFORMATION:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

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I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on Thursday, October 28, 2021.

A handwritten signature in black ink that reads "Mark Numainville".

Mark Numainville, City Clerk

Communications

Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or policycommittee@cityofberkeley.info.

**BERKELEY CITY COUNCIL LAND USE, HOUSING, & ECONOMIC
DEVELOPMENT COMMITTEE
REGULAR MEETING MINUTES**

**Thursday, October 7, 2021
10:30 AM**

Committee Members:

Councilmembers Sophie Hahn, Rigel Robinson, and Lori Droste
Alternate: Councilmember Ben Bartlett

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Written communications submitted by mail or e-mail to the Land Use, Housing, & Economic Development Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

MINUTES

Roll Call 10:32 am. Councilmembers Droste, Hahn, and Robinson present.

Public Comment on Non-Agenda Matters: 2 speakers.

Minutes for Approval

Draft minutes for the Committee's consideration and approval.

1. Minutes - June 17, 2021 and September 28, 2021

Action: M/S/C (Droste/Hahn) to approve the June 17, 2021 and September 28, 2021 minutes.

Vote: All Ayes.

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

2. Affordable Housing Overlay

From: Councilmember Taplin (Author), Councilmember Bartlett (Co-Sponsor), Councilmember Robinson (Co-Sponsor) *(Item contains revised material.)*

Referred: February 22, 2021

Due: February 3, 2022

Recommendation: Refer to the City Manager and Planning Commission revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including but not limited to:

1. Exceeding standards set forth in California Government Code Section 65915 (AB-1763) with additional local height and density incentives, including waivers and modifications similar to those vested in state density bonus law, with ministerial approval for qualifying 100% affordable projects deed-restricted for Low, Very Low, Extremely Low, and Moderate Income households (exclusive of manager's unit) pursuant to AB-1763, and maintaining demolition restrictions consistent with state law, specifying:
 - a. In R3, R4, MU-R, and all C-prefixed zoning districts, a local density bonus in addition to, and duplicative of, the state density bonus under Government Code Section 65915 for qualifying projects, waiving limits on floor area ratio, and permitting up to 80% lot coverage; and study additional incentives in these zones;
 - b. In R-1, R-1A, R-2, and R-2A zones, a local density bonus for qualifying projects inclusive of existing density bonuses, waiving limits on floor area ratio, and permitting up to 80% lot coverage; and study project feasibility in these zones;
 - c. Create General Plan amendments that allow for 100% affordable qualifying projects to increase density while avoiding inconsistencies with General Plan

densities; d. Skilled and trained workforce standards as defined by SB-7 (Atkins, 2021) for qualifying projects with at least 50,000 square feet of total floor area;

2. Exempting parcels with Designated City, State, and Federal Historic Landmarks;
3. Exempting parcels in Very High Fire Hazard Severity Zones (VHFHSZ) as determined by the California Department of Forestry and Fire Protection (CalFire), and in City of Berkeley Fire Zones 2 and 3;
4. Develop objective design standards for qualifying projects to receive ministerial approval, including guidelines for architectural details with respect to neighborhood context, massing, and building facades; materials, color, and finishes; open space, public art, and landscaping; circulation and outdoor lighting; 20' average building setback above the fourth floor (or 45') from any property line that is adjacent to a low or low-to-medium residential district; utilities; interiors; financial feasibility, and environmental sustainability, to be implemented with the following provisions:
 - a. Solicit community input, including through public outreach to be conducted in the Housing Element update process, for design standards that would ensure consistency with the City of Berkeley's architectural quality;
 - b. Establish an advisory Design Review process through the Design Review Committee (DRC). An applicant may elect to return for advisory comment up to two more times. For projects with fewer than 150 units, the City shall review and approve, based on consistency with objective standards, an affordable housing application within 90 days of submission. After 60 days, the City shall provide the applicant with an exhaustive list of objective standards not met by the project, and how the standards could or should be met. For projects with 150 units or more, these time frames shall be 90 and 180 days, respectively. The time under these provisions will toll between the City's issuance of a letter describing inconsistency with objective standards and the time necessary for the applicant to respond to those items.

Council directs the Planning Commission and staff to codify an Affordable Housing Overlay for 100% affordable housing as specified above in 2021-2022 work plans in anticipation of 2023-2031 RHNA cycle. Staff and the commission should build upon the framework established in Government Code Section 65915 as well as municipal implementations of Affordable Housing Overlays in other jurisdictions.

Financial Implications: See report

Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Action: 5 speakers. Discussion held. M/S/C (Robinson/Hahn) Positive recommendation to approve the item as submitted in supplemental material from the Author; revising the first paragraph of the recommendation to read *"Council refers to the City Manager and the Planning Commission to consider an Affordable Housing Overlay for 100% affordable housing and seek to integrate it into the ongoing Housing Element process in anticipation of the 2023-2031 RHNA cycle. Staff should consider revisions to the zoning code and General Plan, permitting increased height and density for 100% affordable housing developments, including specific consideration of labor and design/form standards, to achieve the underlying goals:"*; and adding the words *"or form-based standards"* to bullet 4 of the recommendation.

Vote: All Ayes.

These items are not scheduled for discussion or action at this meeting. The Committee may schedule these items to the Action Calendar of a future Committee meeting.

3. Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals

From: Councilmember Harrison (Author)

Referred: July 28, 2020

Due: February 3, 2022

Recommendation: Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.

Financial Implications: See report

Contact: Kate Harrison, Councilmember, District 4, (510) 981-7140

4. Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval

From: Councilmember Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)

Referred: April 26, 2021

Due: February 14, 2022

Recommendation: 1. Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels.

2. Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage: a. ADU Universal Checklist. A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by all City staff to review ADU permit applications and by customers to understand code requirements. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time. b. Accompanying User-Friendly Webpage. As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include: i. A list of relevant fees and expected payment amounts for permits, inspections, and other requirements; ii. Plan requirements, worksheets, and projected timelines for each step of the process; and iii. Consolidated up-to-date state and local regulations that are easy to understand.

3. Recommend that the City Manager consider adoption of the following two best practices: a. Pre-Approved ADU Design Plans. Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs and construction drawings that have already been approved by the City and are available to customers for a nominal fee to the architect. b. ADU Ally. Consider dedicating existing Planning staff member(s) time to the role of an "ADU Ally." The ADU Ally is a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process.

Financial Implications: See report

Contact: Rashi Kesarwani, Councilmember, District 1, (510) 981-7110

Items for Future Agendas

- None

Adjournment

Action: M/S/C (Robinson/Droste) to adjourn the meeting.

Vote: All Ayes.

Adjourned at 11:56 a.m.

I hereby certify that this is a true and correct record of the Land Use, Housing, & Economic Development Committee meeting held on October 7, 2021.

Sarah K. Bunting, Assistant City Clerk



Rashi Kesarwani
Councilmember District 1

CONSENT CALENDAR
May 11, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Rashi Kesarwani (Author), Councilmember Wengraf (Co-Sponsor), Councilmember Droste (Co-Sponsor), and Councilmember Bartlett (Co-Sponsor)

SUBJECT: Referral to the City Manager to Streamline Accessory Dwelling Unit (ADU) Permit Review and Approval

RECOMMENDATION

Refer to the City Manager to streamline the Accessory Dwelling Unit (ADU) permitting process in order to reduce staff time spent on review and enhance customer service. Further, assess effectiveness of process improvements specified below by reviewing over time: the number of ADUs permitted, average amount of staff time spent on ADU permit review, and permit fee levels.

Recommend that the City Manager develop for Planning staff use an ADU Universal Checklist and accompanying user-friendly webpage:

- **ADU Universal Checklist.** A clear set of universal guidelines and construction requirements should be developed among staff from Planning (both Land Use and Building and Safety Divisions), Fire, and Public Works Departments that is easy to follow in order to eliminate (or significantly reduce) the need for multiple departments to review ADU permit applications and for multiple rounds of review by the same department. The Universal Checklist should be a single document utilized by all City staff to review ADU permit applications and by customers to understand code requirements. The Universal Checklist should enable all City staff and customers to have the same clear understanding of all of the requirements that, if adhered to, would expedite the permitting process and lead to lower permit fees over time.
- **Accompanying User-Friendly Webpage.** As a companion to the ADU Universal Checklist, the City should also create a user-friendly webpage for customers (and prospective customers) with up-to-date information that provides clarity and greater certainty about the process and expected timeline

for the creation of an ADU or Junior ADU, which is within a main dwelling unit. At a minimum, the webpage should include:

- A list of relevant fees and expected payment amounts for permits, inspections, and other requirements;
- Plan requirements, worksheets, and projected timelines for each step of the process; and
- Consolidated up-to-date state and local regulations that are easy to understand.

Recommend that the City Manager consider adoption of the following two best practices:

- **Pre-Approved ADU Design Plans.** Consider development of (1) free ADU designs available to download--of varying sizes and styles--that already conform to all City and state requirements and safety codes; and/or (2) a list of vendors with architectural designs and construction drawings that have already been approved by the City and are available to customers for a nominal fee to the architect.
- **ADU Ally.** Consider dedicating existing Planning staff member(s) time to the role of an "ADU Ally." The ADU Ally is a customer-facing staff person(s) who is an expert on all current state and local ADU regulations and acts as an ally to customers through the planning and building process.

CURRENT SITUATION AND ITS EFFECTS

The City's Process for Reviewing ADU Plans Is Not Efficient. Today, builders and homeowners report that building an ADU in Berkeley is costly, cumbersome, and frustrating. ADU plans submitted by applicants to the City's Permit Service Center are routed to multiple departments for review--a time-consuming process that requires review from multiple plan examiners. Further, the ADU plans are put in the same queue as other larger building projects, creating substantial wait times for approval. Relatedly, there is currently no user-friendly City webpage to alert customers about the process, fees, and requirements for obtaining an ADU permit, making it difficult for prospective customers to understand whether they are eligible to create an ADU and how to embark on the process. Such a webpage could alert residents that the state has eliminated minimum lot size requirements for ADUs, for example, which could encourage more homeowners to consider building an ADU.

Inefficiency Leads to High Permit Fees. Currently, the City of Berkeley permitting fees are estimated at a flat rate (3-5 percent) of the job valuation.¹ Spending less

¹ See the City of Berkeley's Department of Planning and Development's Building Permit Fee estimator: <https://www.cityofberkeley.info/PermitFeeEstimator.aspx>

staff time on permit reviews will result in lower fees over time. Construction costs in California are high and building an average-sized detached ADU typically runs upwards of \$150,000. By creating greater certainty and a more streamlined process, customers will be better able to plan for financing their ADU.

Recent State Law Changes Have Made It Easier to Create ADUs. Recent changes to state law have made it easier for more homeowners to pursue ADU development, such as:

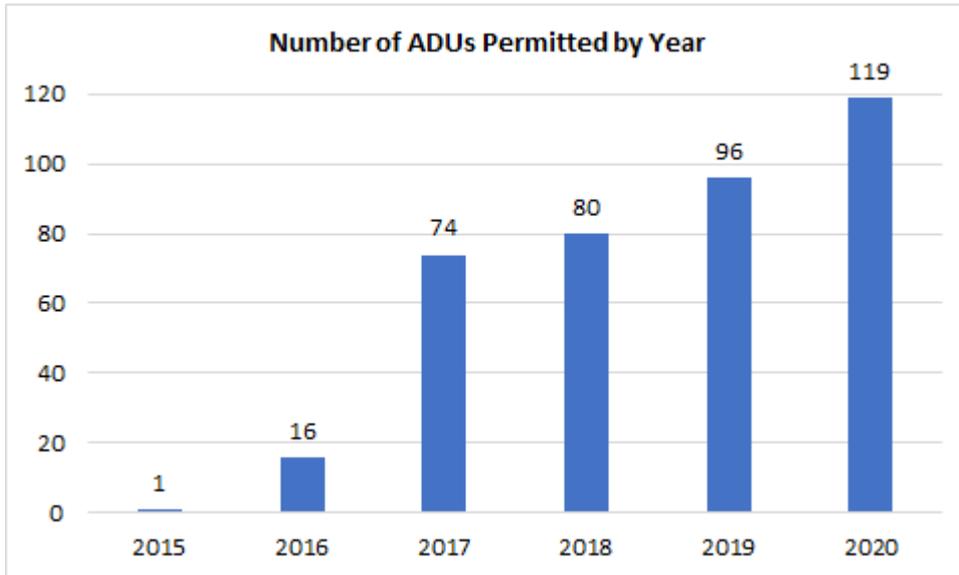
- ADUs are now required to be approved and permitted ministerially (AB 68, 2019)
- Elimination of minimum lot sizes for ADU development (AB 68, 2019)
- Exemption of ADU parking requirements under certain circumstances (SB 13, 2019)²

Best Practices From Other Local Jurisdictions Can Help to Increase ADU Production in Berkeley. Cities throughout the state are meeting an increasing demand among homeowners for ADUs by: revising their local ADU ordinance and simplifying zoning requirements, offering customer-friendly services, and streamlining the permit approval process. Taken together, these actions have shortened processing time, increased consistency, and reduced homeowner expenses. In Berkeley, interest in creating an ADU is growing: a total of 119 permits were approved for the construction of ADUs in 2020, a number that has steadily grown over the last five years, as shown in Exhibit 1. However, to date, the City of Berkeley has not implemented ADU best practices related to customer-friendly services and streamlining the permit approval process, meaning that more could be done to increase the number of ADU permits issued annually. We note that Berkeley is currently in the process of amending its ADU ordinance to comply with new state law changes, particularly with regards to emergency access and egress; installation of sprinklers; parking concerns in fire zones; maximum size of ADUs; as well as consideration of front yard setbacks, open space, and lot coverage.³

Exhibit 1: Number of ADUs Permitted in the City of Berkeley Has Steadily Grown

² For a complete discussion of statutory changes to California's ADU codes see the Department of Housing and Community Development's ADU Handbook, p. 23: https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf

³ See "Response to Short Term Referral for Amendments to the Accessory Dwelling Units (ADU) Ordinance and Related Definitions to Address Public Safety Concerns," Planning Commission Agenda Packet, April 7, 2021, https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-04-07%20PC_Item%209.pdf



Source: “Response to Short Term Referral for Amendments to the Accessory Dwelling Units (ADU) Ordinance and Related Definitions to Address Public Safety Concerns,” Planning Commission Agenda Packet, April 7, 2020,

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Commission_for_Planning/2021-04-07%20PC_Item%209.pdf.

Three Best Practices From Other Jurisdictions Recommended for Berkeley

- **ADU Universal Checklist and Accompanying User-Friendly Webpage.**

The City of San Jose has become well known for its adoption of an ADU Universal Checklist (see attached) that reduces the amount of time that City staff spend reviewing ADU permits and answering customer questions. Prior to the creation of San Jose’s Universal Checklist two years ago, ADU customers were required to work with four different departments (Building Development, Planning, Fire, and Public Works) to know the requirements and get their ADU permits approved--similar to the situation in Berkeley today. The Universal Checklist now provides a one-stop shop that lists all the requirements across all four City departments. This tool gives homeowners and builders clear guidance on what is required and simplifies the plan check process. The initial effort to establish the Universal Checklist took three to four months of weekly meetings among staff from the four relevant departments, according to the San Jose Public Information Manager for the Department of Planning, Building and Code Enforcement Division. However, now that the Universal Checklist is in place, those same staff have more available time to devote to other projects, according to the Public Information Manager. San Jose began utilizing the Universal Checklist in early 2019 shortly before some changes to state ADU laws (such as AB 68) went into effect; that year saw a notable jump in annual applications to build ADUs--from 376 permit applications in 2018 to nearly double in 2019 at 688 permit applications, which

the Public Information Manager attributes to changes in state law, streamlined permitting, and marketing both of these changes.⁴

The marketing and advertising of these changes were facilitated by a user-friendly webpage that includes links to additional webpages with full descriptions of:

- The ADU Universal Checklist
- ADU plan review and permit process
- Pre-approved ADUs and lists of vendors
- Fees for ADUs
- ADU fire requirements
- Parking requirements and exemptions
- State and local ADU ordinances and updates⁵

The ADU Universal Checklist and accompanying user-friendly webpage are simple tools that could help all parties to be clear about the requirements for receiving an ADU permit. There is also precedent for using customer-friendly checklists, as the City of Berkeley already has many examples listed on its website, as shown in Exhibit 2.

Exhibit 2: Building Checklists Currently Available from Online Service Center

Type of Checklist	Use
Code Compliance Checklists	Kitchens; Building Permits Submittals; Bathroom and Laundry; Decks, Porches, Stairs; Electric Vehicle Charging; Reach code low-rise residential; Reach code non-residential high rise and hotel/motel; Residential floor plan; Solar Photovoltaic; Windows and Doors
Energy Conservation Checklists	CalGreen residential; CalGreen non-residential
Stormwater Requirements Checklists	C.3 and C.6 projects; C.3.i projects
Land Use Planning Checklist	Landmark Alterations Submittal Checklists

Source: Online Service Center webpage, City of Berkeley website, https://www.cityofberkeley.info/Online_Service_Center/Home/Forms.aspx.

⁴ E-mail communication with Cheryl Wessling, San Jose’s Public Information Manager, Department of Planning, Building and Code Enforcement Division, April 14, 2021.

⁵ See City of San Jose’s Department of Planning, Building and Code Enforcement ADU webpage: <https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus>

- **Pre-Approved ADU Design Plans.** Numerous jurisdictions have developed ADU design plans that are pre-approved by the jurisdiction’s Planning and Building Departments, ranging from conceptual drawings to full sets of building plans, which greatly reduces the amount of staff time required to approve planning and building permits. This approach streamlines the process for issuing a permit, which reduces design costs for the customer, reduces staff time for City Departments, and increases consistency among all the approved permits. San Diego County⁶ and the City of Encinitas⁷, for example, both offer a set number of optional pre-approved ADU designs (free and available for download) of varying sizes and styles that can eliminate fees for hiring an architect and streamline some of the permitting processes. San Jose utilizes a slightly different model, in which it offers a list of vendors with pre-approved full sets of construction drawings that homeowners may use for a small fee to the architect. The primary benefit of pre-approved ADU design plans is that City staff only need to evaluate the site-specific elements to approve the building permit, leading to a more efficient review and lower permit fees for the customer.⁸
- **ADU Ally.** The cities of Encinitas and San Jose both have dedicated staff whose sole responsibilities concern ADU development, providing staff responses to permitting requests and knowledgeable assistance steeped in state and local regulations.

BACKGROUND

As Home Prices Climb, ADUs are a Form of “Naturally Occurring” More Affordable Housing. Home prices continue to climb across the Bay Area, and Berkeley now ranks as the third most expensive large Bay Area city, with an average home price of \$1.45 million, as shown in Exhibit 3. The state of California has the third highest median home price in the country, after Hawaii and Washington, D.C.⁹ ADUs and Junior ADUs (within the main dwelling) are currently the only avenues available to increase the number of units in many residential zones. ADUs, also known as backyard cottages, have been found to be a form of “naturally occurring” more

⁶ See San Diego County’s Accessory Dwelling Units webpage:

<https://www.sandiegocounty.gov/content/sdc/pds/bldg/adu.html.html>

⁷ See City of Encinitas’ Permit Ready ADU (PRADU) webpage: <https://encinitasca.gov/pradu>

⁸ See City of San Jose’s Pre-approved ADU webpage:

<https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus/adu-permit-plan-review-process/adu-single-family-master-plan-program>. It should be noted that residents need to seek out the vendors and the designs are not free. San Jose also offers a process through which vendors can get their designs approved by the City and thus be added to the binder of pre-approved vendor designs.

⁹ Experian, *Median Home Values by State*, Nov. 19, 2019, <https://www.experian.com/blogs/ask-experian/research/median-home-values-by-state/>.

2180 Milvia Street, Berkeley, CA 94704 • Tel: (510) 981-7110 • Fax: (510) 981-7111

E-Mail: Rkesarwani@cityofberkeley.info

affordable housing when compared to the monthly cost to rent or own a single-family home.¹⁰

Exhibit 3: Berkeley Home Prices are Third Highest Among Large Bay Area Cities

City	% change from Feb. 2020 to Feb. 2021	▼ Average value in Feb. 2021
Sunnyvale	11.1%	\$1.8M
San Mateo	1.6%	\$1.5M
Berkeley	6.9%	\$1.5M
San Francisco	-3.2%	\$1.4M
Santa Clara	12.2%	\$1.4M
Fremont	7.7%	\$1.2M
San Jose	14.0%	\$1.2M
Daly City	3.2%	\$1.1M
Livermore	10.4%	\$900K
Oakland	8.9%	\$870K

Source: Zillow, as reported by Neilson, Susie, Sumida, Nami, “Every major Bay Area city has seen home values go up in the pandemic. Except for one,” *The San Francisco Chronicle*, April 10, 2021, <https://www.sfchronicle.com/local/article/Mapped-Real-estate-prices-soared-in-the-Bay-Area-16091650.php>.

RATIONALE FOR RECOMMENDATION

The proposed recommendations for streamlining the review of ADU permit applications are intended to ensure that staff time is used efficiently, customers receive their permits in a timely manner at a competitive price, and that ultimately, these process improvements encourage more homeowners to create ADUs--a form of naturally-occurring more affordable housing that is greatly needed across the Bay Area and state.

¹⁰ See both San Mateo County – April Report, *Affordability of Secondary Dwelling Units — 21 Elements*, April 9, 2014 (Used data from 2010- 2013): <https://norcalapa.org/wp-content/uploads/2018/07/Affordability-of-Second-Units-April-2014.pdf>; and Chapple, et. al., *Yes in My Backyard: Mobilizing the Market for Secondary Units*, 2012, Center for Community Innovation, Univ. of California, Berkeley, Page 10: https://communityinnovation.berkeley.edu/sites/default/files/yes_in_my_backyard_mobilizing_the_market_for_secondary_units.pdf?width=1200&height=800&iframe=true

FISCAL IMPACT

Time-limited staff time from relevant departments (Planning, Fire, and Public Works) to develop standardized sets of requirements to satisfy all building codes and safety regulations. Additional staff time from the Planning Department would be required to implement related ADU streamlining recommendations. We note that over time the initial outlay of staff time would lead to more efficient processing of ADU permit applications.

ENVIRONMENTAL SUSTAINABILITY

Encouraging the creation of ADUs and Junior ADUs enables the City to make more efficient use of residential land that is generally located in close proximity to public transit. Studies show that infill development is an effective strategy for reducing greenhouse gas emissions by reducing vehicle miles traveled when compared to homes created in outlying undeveloped areas.

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

Attachment:

City of San Jose ADU Universal Checklist

ADU Universal Checklist

Are you thinking about building an Accessory Dwelling Unit (ADU)? This checklist will help ensure that your idea for an ADU aligns with the City’s Zoning Code, and will help you prepare for building permit requirements. Homeowners, designers, and construction professionals should all understand how the items in this checklist may affect the ADU design and requirements, before creating any building plans.

Need help?

- To find your property designations, visit www.sjpermits.org and tap “Permits & Property Information”; enter your address; and on the next screen, click on your property and select “Property Information.” A list of designations will appear.
- If you need further help, contact the ADU Ally at adu.ally@sanjoseca.gov or 408-793-5302.

Learn more about ADUs: www.sanjoseca.gov/ADUs

QUESTION	YES	NO						
SECTION A. PROPERTIES THAT QUALIFY								
<p>1. Zoning. Is the property in a residential zone that begins with R-1, R-2, R-M, or PD? Or, regardless of zoning, is the property in one of the following General Plan designations:</p> <ul style="list-style-type: none"> - Residential Neighborhood or Mixed-Use Neighborhood or Mixed-Use Commercial - Urban Residential or Transit Residential or Rural Residential - Downtown or Urban Village <p>Find zoning designation: www.sjpermits.org Find General Plan designation: www.sanjoseca.gov/GPdesignation Questions on PD zones: Speak with a Planner at 408-535-3555 to learn about unique PD zones.</p> <p>> Outcome: If no, an ADU is not allowed. If yes, see the table below:</p> <table border="1" data-bbox="167 1056 1409 1241"> <thead> <tr> <th>Property Type</th> <th>Qualifying Units</th> </tr> </thead> <tbody> <tr> <td>Single-family</td> <td>Subject to standards, one ADU and one JADU may be allowed -- see definitions, pages 2-4.</td> </tr> <tr> <td>Duplex or Multifamily</td> <td>Subject to standards (pages 2-4), two detached ADUs may be allowed. For a duplex, one attached ADU may also be allowed. For multifamily lots, a number of attached ADUs equivalent to up to 25% of existing units may also be allowed (for example, a building with 12 units may qualify for 3 attached ADUs).</td> </tr> </tbody> </table>	Property Type	Qualifying Units	Single-family	Subject to standards, one ADU and one JADU may be allowed -- see definitions, pages 2-4.	Duplex or Multifamily	Subject to standards (pages 2-4), two detached ADUs may be allowed. For a duplex, one attached ADU may also be allowed. For multifamily lots, a number of attached ADUs equivalent to up to 25% of existing units may also be allowed (for example, a building with 12 units may qualify for 3 attached ADUs).		
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SECTION B. PROPERTY DESIGNATIONS								
<p>2. Easements. Does the property have a dedicated easement? Easements are described in the title report that came with the purchase of your home. Contact a title company if you need to obtain a report. Tract and parcel maps may show easements, but may be less accurate than a title report. Find these maps at the County Surveyor Record Index tool at http://bit.ly/2ZhGjXc.</p> <p>> Outcome: If yes, you must comply with the requirements of the easements, which may include no construction allowed within the easement area.</p>								
<p>3. Historic Designation. Is the property located in a Historic District identified on the California Register of Historic Resources? Find historic designations: www.sanjoseca.gov/HistoricResourcesInventory.</p> <p>> Outcome: If yes, simplified design standards will apply. Please speak with a Planner at 408-535-3555.</p>								
<p>4. Geohazard Zone. Is the property in a designated “geohazard” or “landslide” zone? Find designations: www.sjpermits.org</p> <p>> Outcome: If yes, you will need a Geologic Hazard Clearance. Call Public Works at 408-535-7802 or email pwgeneralinfo@sanjoseca.gov</p>								
<p>5. Flood Zones. Is the property in Flood Zones A, AE, AH, or AO? <i>Properties in D or X zones are excluded from these requirements.</i></p> <p>Find designation: www.sjpermits.org Questions: Call 408-535-7803 or email floodzoneinfo@sanjoseca.gov</p> <p>> Outcome: If yes, see flood zone design requirements in Bulletin #211-ADU Plan Requirements, found at www.sanjoseca.gov/home/showdocument?id=39040</p>								

continued > 19

SECTION C. DEVELOPMENT STANDARDS - Per Municipal Code Section 20.30.150: <http://bit.ly/33Knz6c>

A great way to ensure your proposed ADU complies with the Zoning Code Development Standards is to meet with a City Planner. This free consultation can help you avoid designing plans that will NOT be approved. Come to the Permit Center and bring a completed Universal Checklist and a rough sketch of your property showing dimensions and the location of the main home and location of the proposed ADU. See full instructions for this consultation at www.sanjoseca.gov/ADUs.

QUESTION **YES** **NO**

6. Location. Is your proposed ADU located as follows?

Property Type	Location Requirements
Single-Family	<p>Attached ADU: Must share a wall with main residence OR share a roof structure with main residence and be separated by no more than 10 feet. For an attached ADU in the front yard, the front door cannot be on same street-facing façade as that of the primary residence, with some exceptions (learn more by speaking with a Planner at 408-535-3555).</p> <p>Detached ADU: Must be in the rear yard or 45 feet from the front property line. Must have a minimum 6-foot separation from the main dwelling unit. May be a converted detached garage or accessory building OR may be built attached to a detached garage or accessory building.</p> <p>Junior Accessory Dwelling Unit (JADU): Must locate entirely within the main home’s existing footprint. You may have a JADU and a detached ADU. Both a JADU and attached ADU are not allowed.</p>
Duplex or Multifamily	<p>Attached ADU: Location is limited to a conversion of existing non-livable space, such as converting an attic, basement, garage, storage room, boiler room, or passageway.</p> <p>Detached ADU: Must be in the rear yard or 45 feet from the front property line, with a minimum 6-foot separation from the main building. The ADU may be a conversion of a detached garage or accessory building, or attached to a detached garage or accessory building.</p> <p>JADU: Not allowed.</p>

> **Outcome:** If yes, your planned location for the ADU is in compliance. If no, your plans will not be approved.

7. Size. Is the size of the proposed ADU within the maximum limits as shown in the tables below AND does the proposed size account for the Rear Yard Coverage Limitation?

SINGLE-FAMILY LOTS	
Lot Size	Maximum Floor Area Allowed
Up to 9,000 sf	Detached ADU: 1,000 sf maximum
	Attached ADU: Size can be up to 800 sf OR up to 50% of the primary residence area without exceeding 1,000 sf. Example: For an 1,800 sf home, a 900 sf attached ADU is allowed.
9,000 sf and greater	Detached ADU: 1,200 sf maximum
	Attached ADU: Size can be up to 800 sf OR up to 50% of the primary residence area without exceeding 1,200 sf. Example: For an 2,400 sf home, a 1,200 sf attached ADU is allowed.
Any lot with a JADU	JADU: 500 sf maximum
	Detached ADU: 800 sf maximum
	Attached ADU: not allowed with a JADU

DUPLEX & MULTIFAMILY LOTS	
Lot Size	Maximum Floor Area Allowed
Any lot size	Detached ADU: 800 sf maximum
	Attached ADU: 800 sf maximum
	JADU: not allowed

How to calculate allowable square footage (sf):
The square footage of all living areas (existing or proposed) connected by a door or other opening counts toward the total allowable square footage of the ADU.

Rear Yard Coverage Limitation. The rear yard is the area that extends from the rear lot line to the rear of the main home across the full width of the lot. The cumulative coverage of the rear yard by structures — including coverage by the ADU, accessory buildings, sheds, gazebos, or other structures — may not exceed 40% of the rear yard or 800 sq.ft., whichever is greater. Does your project comply with this rule?

> **Outcome:** If yes, your ADU size is in compliance. If no, your plans will not be approved.

QUESTION	YES	NO												
<p>8. Setbacks. Does your proposed ADU comply with these rules for setbacks?</p> <table border="1" data-bbox="167 205 1409 751"> <thead> <tr> <th data-bbox="167 205 370 237">Property Type</th> <th data-bbox="370 205 1409 237">Location Requirements</th> </tr> </thead> <tbody> <tr> <td data-bbox="167 237 370 420">Single-family</td> <td data-bbox="370 237 1409 420"> Attached ADU: Same setback requirements as apply to the main dwelling unit. Detached ADU: - Must be set back 45 feet minimum from front property line. - Rear/side setbacks less than 3 feet may be subject to fire mitigation measures, see p. 4. - A second story OR new ADU with greater than 40% rear yard coverage must be set back 4 feet from both rear and side property lines. </td> </tr> <tr> <td data-bbox="167 420 370 602">Duplex or Multifamily</td> <td data-bbox="370 420 1409 602"> Attached ADU: Setbacks not applicable as the attached ADU is limited to a conversion of existing non-livable space. Detached ADU: - Must be in the rear yard or 45 feet from the front property line. - Rear/side setbacks: Minimum 4 feet, allows for up to 1-foot projection for eaves - A second story must be set back 4 feet from both rear and side property lines. </td> </tr> <tr> <td data-bbox="167 602 370 646">Corner lots</td> <td data-bbox="370 602 1409 646">A 10-foot setback is required on the street side.</td> </tr> <tr> <td data-bbox="167 646 797 690">Lots ½ acre or greater along riparian corridors</td> <td data-bbox="797 646 1409 690">Minimum 100-foot setback required.</td> </tr> <tr> <td data-bbox="167 690 797 751">Decks, unenclosed entry landings, and second-story balconies</td> <td data-bbox="797 690 1409 751">Minimum 15-foot rear/side setback required. May not locate along building walls nearest to rear and side property lines.</td> </tr> </tbody> </table> <p>> Outcome: If yes, the setbacks for your ADU are in compliance. If no, your plans will not be approved.</p>	Property Type	Location Requirements	Single-family	Attached ADU: Same setback requirements as apply to the main dwelling unit. Detached ADU: - Must be set back 45 feet minimum from front property line. - Rear/side setbacks less than 3 feet may be subject to fire mitigation measures, see p. 4. - A second story OR new ADU with greater than 40% rear yard coverage must be set back 4 feet from both rear and side property lines.	Duplex or Multifamily	Attached ADU: Setbacks not applicable as the attached ADU is limited to a conversion of existing non-livable space. Detached ADU: - Must be in the rear yard or 45 feet from the front property line. - Rear/side setbacks: Minimum 4 feet, allows for up to 1-foot projection for eaves - A second story must be set back 4 feet from both rear and side property lines.	Corner lots	A 10-foot setback is required on the street side.	Lots ½ acre or greater along riparian corridors	Minimum 100-foot setback required.	Decks, unenclosed entry landings, and second-story balconies	Minimum 15-foot rear/side setback required. May not locate along building walls nearest to rear and side property lines.		
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Decks, unenclosed entry landings, and second-story balconies	Minimum 15-foot rear/side setback required. May not locate along building walls nearest to rear and side property lines.													
<p>9. Height. Does your proposed ADU comply with these height limitations?</p> <table border="1" data-bbox="167 871 1409 1081"> <thead> <tr> <th data-bbox="167 871 370 903">Property Type</th> <th data-bbox="370 871 1409 903">Location Requirements</th> </tr> </thead> <tbody> <tr> <td data-bbox="167 903 370 1003">Single-family</td> <td data-bbox="370 903 1409 1003"> Attached ADU: Same height limitations as apply to the main dwelling unit. Detached ADU: One story: 18 feet maximum. Two-story: 24 feet maximum If the property includes a JADU, height of a detached ADU is 16 feet maximum per state law. </td> </tr> <tr> <td data-bbox="167 1003 370 1081">Duplex or Multifamily</td> <td data-bbox="370 1003 1409 1081"> Attached ADU: Limited to a conversion of existing non-livable space and must maintain existing height. Detached ADU: 16 feet maximum per state law </td> </tr> </tbody> </table> <p>Outcome: If yes, the height of your ADU is in compliance. If no, your plans will not be approved.</p>	Property Type	Location Requirements	Single-family	Attached ADU: Same height limitations as apply to the main dwelling unit. Detached ADU: One story: 18 feet maximum. Two-story: 24 feet maximum If the property includes a JADU, height of a detached ADU is 16 feet maximum per state law.	Duplex or Multifamily	Attached ADU: Limited to a conversion of existing non-livable space and must maintain existing height. Detached ADU: 16 feet maximum per state law								
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Duplex or Multifamily	Attached ADU: Limited to a conversion of existing non-livable space and must maintain existing height. Detached ADU: 16 feet maximum per state law													
<p>10. Sleeping Area. Up to two bedrooms are allowed, and the maximum bedroom size is 400 sf. Does the sleeping area or bedroom/s planned for the ADU or JADU comply with these standards?</p> <p>> Outcome: If yes, your layout for the sleeping area is allowed. If no, your plans will not be approved</p>														
<p>11. Kitchen, Bathroom, Storage. Does your proposed ADU or JADU comply with these rules?</p> <p>Kitchen - ADUs must have a sink, food preparation counter, storage, cabinets, and permanent cooking facilities such as a range or cooktop and oven. JADUs may have the same OR a small efficiency kitchen with plug-in appliances.</p> <p>Bathroom/s - For ADUs, up to two bathrooms are allowed, requiring a sink, toilet, and shower and/or bath facilities. For JADUs, sharing the bathroom with the main residence is allowed or one bathroom or a half bathroom is allowed.</p> <p>Storage - A closet or other enclosed storage area cannot exceed 60 sq. ft.</p> <p>> Outcome: If yes, your design is in compliance. If no, your plans will not be approved.</p>														
<p>12. Second Story Window Sill Height. Sill height for any openings must be a minimum 5 feet from the floor for walls nearest to rear and side property lines. Does your project comply with this rule?</p> <p>> Outcome: If yes, this window design is allowed. If no, the plans will not be approved.</p>														
<p>13. Parking Requirements. Does your proposed ADU either provide a parking space OR qualify for an exemption?</p> <p>Exemptions: Many ADUs qualify for a parking exemption in accordance with state law. Please see the Parking Requirements page at www.sanjoseca.gov/ADUs for a list of the exemption criteria.</p> <p>Parking space location: If you are required to provide a parking space, it must be located on a surface free of mud or dust. It may be located within the front and side setbacks of the property, with a minimum driveway length of 18 feet.</p> <p>Parking requirements after a garage conversion: If you converted a garage to an ADU, replacement parking for the main home is no longer required.</p> <p>> Outcome: If yes, your proposed project is in compliance. If no, your plans will not be approved.</p>														

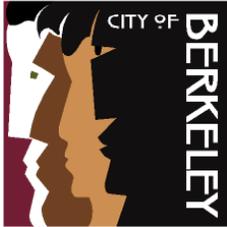
SECTION D. FIRE SAFETY & EMERGENCY ACCESS		
We will review your ADU project for compliance with the California Fire Code (CFC) so that projects are built for safety and ease of access during an emergency. For questions, call the City’s Fire Prevention Bureau: 408-535-7750		
QUESTION	YES	NO
<p>14. Hydrant Water Flow. Is a minimum flow of 1,000 gpm at 20 psi available at the closest hydrant? Ask your Water Company for this information. Send an email with “ADU WATER FLOW REQUEST” in the subject line and present this information:</p> <ul style="list-style-type: none"> ▪ Your name ▪ Street name and address of the project ▪ Nearest cross street to that location <p>Submit the letter from the Water Company that contains this water flow data with your building permit application. DON’T WAIT! A top reason for permit issuance delays is not having this letter. Your water company will respond, so contact them today. Find Water Company contact information at the ADU Fire Requirements webpage: https://www.sanjoseca.gov/business/development-services-permit-center/accessory-dwelling-units-adus/adu-fire-requirements</p> <p>> Outcome: If the flow is other than 1,000 gpm at 20 psi, Fire staff will review flow data and will evaluate if additional fire safety measures are required.</p>		
<p>15. Hydrant Proximity. Are all exterior walls of the ADU within 600 feet of a fire hydrant?</p> <p>On the Site Plan Vicinity Map for plan submittal, mark one or more locations of fire hydrants closest to the project. Indicate the distance from the hydrant/s to the farthest exterior wall of the ADU, using the minimum 3-foot clear path of travel.</p> <p>> Outcome: If no, your project may require a Fire Variance that entails additional safety measures. Call 408-535-7750 for direction. Find the Variance application at: www.sanjoseca.gov/Home/ShowDocument?id=9343</p>		
<p>16. Fire sprinklers. Is the primary residence protected by fire sprinklers?</p> <p>> Outcome: If yes, the ADU must have a fire sprinkler system.</p>		
<p>17. Fire sprinklers and attached ADUs. Is the project an attached ADU greater than 500 square feet AND does the overall gross floor area with the main unit exceed 3,600 square feet?</p> <p>> Outcome: If yes, the entire house and ADU are required to be protected with a fire sprinkler system.</p>		
<p>18. ADU Address. Does the ADU have its own address and is the address visible and legible from the street?</p> <p>Premises Identification guidelines: www.sanjoseca.gov/Home/ShowDocument?id=9323.</p> <p>On the Site Plan for plan submittal, show the address location on the primary dwelling unit and on the ADU.</p> <p>> Outcome: If no, please complete Form #302, found at: www.sanjoseca.gov/home/showdocument?id=25943</p>		
<p>19. ADU Access. Is the distance from the street curb of the lot to all portions of the proposed ADU no greater than 200 feet as measured along a minimum 3-foot clear path to all sides of the ADU?</p> <p>On the Site Plan for plan submittal, show the distance along the minimum 3-foot clear path from the front property line to the ADU’s farthest exterior side or projection (such as eaves), whichever is farthest.</p> <p>> Outcome: If no, your project may require a Fire Variance that entails additional safety measures. Call 408-535-7750 for direction. Find the Variance application at: www.sanjoseca.gov/Home/ShowDocument?id=9343</p>		
SECTION E. MISCELLANEOUS		
<p>20. Tree Removal. Will constructing an ADU require removal of an ordinance-size or heritage tree?</p> <p>> Outcome: If yes, please see the City’s rules for removing trees: www.sanjoseca.gov/treepermit</p>		

ADU ALLY - HERE TO HELP YOU

Our ADU Ally is a staff member that will answer your questions; connect you to other staff who may be of assistance; and schedule your appointment for ADU plan submittal and review.

Email: adu.ally@sanjoseca.gov

Phone: 408-793-5302



Kate Harrison
Councilmember District 4

ACTION CALENDAR
July 28, 2020

To: Honorable Mayor and Members of the City Council
From: Councilmember Kate Harrison
Subject: Amendments to Berkeley Municipal Code 23C.22: Short Term Rentals

RECOMMENDATION

Amend Berkeley Municipal Code 23C.22: Short Term Rentals to clarify the ordinance and insure adequate host responsibilities, tenant protections and remedies for violating the ordinance.

BACKGROUND

Berkeley has had regulations on short term rentals (STRs) since 2017, allowing STRs in most residential and commercial zones, as long as the host pays the transient occupancy tax and the unit being rented fits particular criteria (no Below Market Rate unit may be a short term rental, no unit may be a short term rental if it has had a No Fault Eviction in the past five years, etc). The City of Santa Monica also has an ordinance regulating STRs that places the regulatory burden on the *host platform* (i.e., AirBnB or other corporate host platforms) rather than the individual renting out their unit. Santa Monica placed four obligations on the host platform: collecting and remitting transient occupancy taxes, regularly disclosing listings and booking information to the City, refraining from booking properties not licensed by the City, and refraining from collecting fees for ancillary services.¹ The Ninth Circuit Court of Appeals upheld the legality in the case of *Homeaway.com v. Santa Monica*, thus confirming the rights of Cities to regulate short term rental host platforms.

The proposed amendments update the City of Berkeley's STR regulations to more closely align with Santa Monica's ordinance, as well as other amendments intended to ensure that the short term rentals in Berkeley serve the needs of the City. The primary five changes are as follows:

1) Regulatory burden shifted to the Host Platform

We clarify the definition of a hosting platform in 23C.22.030.H (page 2) as a marketplace that derives revenue from maintaining said short term rental marketplace. Regulating the host platform consolidates regulation and ensures that the transient

¹ *Homeaway.com v Santa Monica*. United State Court of Appeals for the Ninth Circuit. No. 18-55367.

occupancy tax owned to the City gets paid. Recommended changes to 23C.22.050.H and I (page 5) state that if a hosting platform is utilized to book a short term rental, both it and the individual host are legally responsible and are jointly liable for remitting the transient occupancy tax. New section 23C.22.050.I (pages 5-6) also outlines new duties of the hosting platform, including a regular disclosure of short term rental listings in the City as well as their address, length of stay, and listed prices. In addition, the hosting platform is responsible for ensuring that all short term rentals are appropriately licensed with a Zoning Certificate and adds the requirements that STRs must list the Zoning Certificate on any STR advertisements. The new regulations also include a safe harbor clause, making clear that hosting platforms that disclose listings, regularly remit the transient occupancy tax, and ensure the listing has a Zoning Certificate will be presumed to be in compliance with the chapter.

2) Hosts can have only one residence

Individual people have the right to rent out their homes on a short term basis, but in a housing crisis, it is in the best interest of the City to ensure that no one has extra units for STRs when they could house someone long term instead. To that end, 23C.22.030.F and 23C.22.030.I (pages 2-3) clarify that hosts may not have more than one principle place of residency, which may include accessory buildings or ADUs.

3) Short term rentals limited to single ADUs, single Accessory Buildings or Golden Duplexes not rented for the past ten years

The current ordinance limits use of Accessory Buildings or Accessory Dwelling Units to those that have not been rented for ten years. Additions to Section 23C.22.020.D (page 1) expand that prohibition to include more than one Accessory Building or ADU on a property and prohibits short term rentals in Golden Duplexes if those units have been rented in the last ten years. Unpermitted use of these units would be investigated by the Rent Stabilization Board under Section 23C.22.060.I (page 7).

4) Closing 14/30 day loophole

Under current law, any rental over 14 days is not a short term rental and thus does not require paying a transient occupancy tax. Any rental that is shorter than 30 days is not a long term rental and thus rent control and other rental protections are awarded to the tenant. As it now stands there are instances of regularly renting a unit for a period of time between 14 days and fewer than 30 days, thus circumventing standard regulations. 23C.22.030.N (page 3) and 23C.22.040 (page 4) close this loophole by disallowing rentals between 14 and 30 days, and stating that no Zoning Certificate or advertisement for a short term rental may be permitted for rentals longer than 14 days.

5) Remedies

New language under 23C.22.060E and 23C.22.060.J (page 7) clarify that in the case of a private right of action the prevailing party is entitled to recover reasonable costs and attorney's fees, thus making private right of action more financially feasible. The new

Resolution in Support of Senate Bill 54 and Assembly Bill 1080:
The California Circular Economy and Plastic Pollution Reduction Act

ACTION CALENDAR
July 28, 2020

language also gives the City the right to issue administrative subpoenas to determine whether short term rentals are in compliance with the chapter. Both of these edits are intended to encourage enforcement and compliance.

Finally, the ordinance clarifies the definitions of the terms Accessory Building, Accessory Dwelling Unit, and the Transient Occupancy Tax and defines a Golden Duplex and other clarifying language.

CONTACT PERSON

Kate Harrison, Berkeley City Councilmember, (510) 981-7140

ATTACHMENTS

Ordinance

100Chapter 23C.22 Short-Term Rentals

23C.22.010 Purposes

The purposes of the Short-Term Rentals related regulations contained in this Chapter are:

- A. To prevent long-term rental units from being replaced with Short-Term Rentals and protect affordable housing units from conversion.
- B. To preserve and protect neighborhood character and livability from nuisances that are often associated with Short-Term Rentals.
- C. To generate City revenue to share City infrastructure cost and other public expenditures by operation of Short-Term Rentals under established standards.
- D. To provide alternative forms of lodging. (Ord. 7521-NS § 1 (part), 2017)

23C.22.020 Applicability

- A. Short-Term Rentals shall be allowed in residential uses in the following zoning districts: R-1, R-1A, R-2, R-2A, R-3, R-4, R-5, R-S, R-SMU, C-DMU, C-1, C-NS, C-SA, C-T, C-W, and MU-R.
- B. Short-Term Rentals shall be prohibited in below market rate (BMR) units. BMR units for Short-Term Rental purposes refer to Dwelling Units whose rents are listed as a result of deed restrictions or agreements with public agencies, and whose tenants must be income-qualified.
- C. A property containing a Dwelling Unit protected by a No-Fault Eviction cannot operate Short-Term Rentals for five years from eviction unless it is a single-family home that has been vacated for purposes of Owner Occupancy in compliance with the Rent Stabilization Ordinance.
- D. Short-Term Rentals are only allowed in a single, Accessory Building and in single existing Accessory Dwelling Units (ADUs), or a Golden Duplex unless such ADUs are or have within the last 10 (ten) years preceding the effective date of this ordinance been used for long term rentals, as defined by the requirements of the Rent Stabilization Ordinance. Short-Term Rentals shall not be allowed in Accessory Dwelling Units permitted after the date this Ordinance first became effective. (Ord. 7521-NS § 1 (part), 2017)

23C.22.030 Definitions

The definitions set forth in this Section shall govern the meaning of the following terms as used in this Chapter:

A. Accessory Building: A detached building containing habitable space, excluding a kitchen, which is smaller in size than the main building on the same lot, and the use of which is incidental to the primary use of the lot.

B. Accessory Dwelling Unit: A secondary dwelling unit that is located on a lot which is occupied by one legally established Single-Family Dwelling that conforms to the standards of Section 23C.24. An Accessory Dwelling Unit must comply with local building, housing, safety and other code requirements and provide the following features independent of the Single-Family Dwelling: 1) exterior access to Accessory Dwelling Unit; 2) living and sleeping quarters; 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes an efficiency unit and a manufactured home, as defined in the Health and Safety Code.

C. "Adjacent Properties" mean the Dwelling Units abutting and confronting, as well as above and below, a Dwelling Unit within which a Short-Term Rental is located.

D. "Dwelling Unit" means a building or portion of a building designed for, or occupied exclusively by, persons living as one (1) household.

E. "Golden Duplex" means an owner-occupied duplex that is exempt from rent control and eviction protection, so long as it was occupied by the owner on December 31, 1979 and is currently occupied by the owner.

F. "Host" means any Owner and is used interchangeably in this Title with Owner Host. An Owner Host is a person who is the owner of record of residential real property, as documented by a deed or other such evidence of ownership, who offers his or her Host Residence, or a portion thereof, as a Short-Term Rental. For purposes of offering a Short-Term Rental, an Owner Host may not have more than one "Host Residence" in the City of Berkeley, excluding an Accessory Building or an Accessory Dwelling Unit on the same residential real property. A Tenant Host is a lessee of residential real property, as documented by a lease or other such evidence, who offers their Host Residence, or portion thereof, as a Short-Term Rental.

G. "Host Present" or "Host Presence" means the Host is living in the Host Residence during the Short-Term Rental period. In the case of a parcel comprised of a Single Family Dwelling and one or more authorized Accessory Dwelling Units and/or Accessory Buildings, the Host is considered Present if he or she is present in any Dwelling Unit on such property during the Short Term Rental period.

H. "Hosting Platform" means a business or person that provides a marketplace through which an Owner Host may offer a Dwelling Unit for Short-Term Rentals. A Hosting Platform is usually, though not necessarily, provided through an internet-based platform. It generally allows a Dwelling Unit to be advertised through a website provided by the Hosting Platform and provides a means for potential Short-Term Rental Transients to arrange and pay for Short-Term Rentals, and from which operator of the Hosting Platform derives revenue, including booking fees or advertising revenues, from providing or maintaining the marketplace.

L. "Host Residence" means a Host's principal place of residence as defined by whether the Host carries on basic living activities at the place of residence, and whether the place of residence is the Host's usual place of return. Motor vehicle registration, driver's license, voter registration or other evidence as may be required by the City shall be indicia of principal residency. A Host may have only one place of principal residency in the City and if that principal place of residency contains more than one dwelling unit, the principal place of residency shall be only one such dwelling unit.

J. "Host Responsibilities" means the requirements that a "Host" is obligated to comply with as set forth in this Ordinance.

K. "Local Contact" means a person designated by the Host who shall be available during the term of any Short-Term Rental for the purpose of (i) responding within sixty minutes to complaints regarding the condition or operation of the Dwelling Unit or portion thereof used for Short-Term Rental, or the conduct of Short-Term Rental Transients; and (ii) taking appropriate remedial action on behalf of the Host, up to and including termination of the Short Term Rental, if allowed by and pursuant to the Short Term Rental agreement, to resolve such complaints.

L. "No Fault Eviction" means an eviction pursuant to the Ellis Act or Sections 13.76.130.A.9 or 10 of the Berkeley Municipal Code.

M. "Short-Term Rental" or "STR" means the use of any Dwelling Unit, authorized Accessory Dwelling Unit or Accessory Building, or portions thereof for dwelling, sleeping or lodging purposes by Short-Term Rental Transients. Short-Term Rental shall be an accessory use to a residential use and be considered neither a Tourist Hotel nor a Residential Hotel for purposes of this Title.

N. Short Term Rentals are allowed for 14 or fewer consecutive days. Any rental for more than 14 consecutive days is not permitted as a Short Term Rental, and any rental for more than 14 consecutive days and less than 30 consecutive days is not permitted in the City of Berkeley.

O. "Short-Term Rental Transient" or "STR Transient" means any person who rents a Dwelling Unit, authorized Accessory Dwelling Unit or Accessory Building, or portion thereof, [for 14 or fewer consecutive days](#).

P. ["Transient Occupancy Tax" or "TOT" means local transient tax as set forth in Berkeley Municipal Code Section 7.36. The tax is paid by the Short-Term Rental Transient at the time payment is made for the Short-Term Rental. The TOT is then remitted to the City.](#)

23C.22.040 Permit And License Required

Short Term Rentals are permitted only in the Host Residence. A Zoning Certificate [and a Business License](#) for a Short-Term Rental shall be required for each Host to operate a Short-Term Rental. [A Host must provide the Uniform Resource Locator \(URL\) — specifically, the website address — for any and all advertisements for the STR, if applicable, on the Zoning Certificate application.](#)

[No Zoning Certificate may be issued to allow for a Short-Term Rental of more than 14 consecutive days, and no advertisement for a Short Term Rental of more than 14 consecutive days is allowed.](#)

23C.22.050 Operating Standards and Requirements

A Short-Term Rental is allowed only if it conforms to each of the operating standards and requirements set forth in this Section, [and the Host complies with all Host Responsibilities set forth in this Ordinance.](#)

A. Proof of Host Residency.

1. An Owner-Host of a Short-Term Rental must provide documentation of Owner Host and Host Residence status and, if applicable, Host Presence, as defined [above](#).

2. A Tenant-Host must provide documentation of lessee status, Host Residence and Host Presence, if applicable, as defined in subdivisions C, E, and B of Section [23C.22.030](#). In addition, a Tenant-Host must present written authorization allowing for a Short-Term Rental in the Host Residence from the building owner or authorized agent of the owner.

B. STR Duration and Required Residency Timeframes

1. When the Host is Present, the unit, or a portion thereof, may be rented as a Short-Term Rental for an unlimited number of days during the calendar year.

2. When the Host is not Present, the number of days that the unit can be used for Short-Term Rental purposes shall be limited to 90 days per calendar year.

C. Number of Occupants. The maximum number of Short-Term Rental Transients allowed for a Short-Term Rental unit shall be as provided for in the Berkeley Housing Code (BMC Chapter [19.40](#)).

D. Notification.

(i) Initial, one-time notification of the establishment of a Short-Term Rental by [Zoning Certificate](#) and Business license, shall be provided to the residents of all Adjacent Properties. Notification shall include Host and Local Contact information. Additional notification shall be required within a week of updated Host [or Local Contact information](#).

(ii) In any advertisement for the STR, a Host must include the [Zoning Certificate number](#).

E. Enforcement Fee. For the initial enforcement period, while enforcement costs are being determined, the Host shall pay an additional enforcement fee in an amount equal to 2% of the rents charged by that Host, not to exceed the cost of the regulatory program established by this Chapter over time. Such fees may be paid by the Hosting Platform on behalf of the Host. After the initial enforcement period, the Council may revise the enforcement fee by resolution.

F. Liability Insurance. Liability insurance is required of the Host, or Hosting Platform on behalf of the Host, in the amount of at least \$1,000,000.

G. Documents Provided to STR Transients. Electronic or paper copies of the Community Noise Ordinance and Smoke-Free Multi-Unit Housing Ordinance must be provided to STR Transients upon booking and upon arrival.

H. Transient Occupancy Tax. (“TOT”). The TOT shall be collected on all Short-Term Rentals. The Host is responsible for collecting and remitting the TOT, in coordination with any Hosting Platform, if utilized, to the City. If a Hosting Platform collects payment for rentals, then both it and the Host shall have legal responsibility for collection and remittance of the TOT.

I. Housing Platform Responsibilities.

(i) Subject to applicable laws, A Hosting Platform shall disclose to the City on a regular basis each rental listing located in the City, the names of the person or persons responsible for each such listing, the address of each such listing, the length of stay for each such listing, and the price paid for each booking transaction.

(ii) A Hosting Platform shall not complete any booking transaction for any STR unless the Host has a valid Zoning Certificate at the time the Hosting Platform receives a fee the booking transaction.

(iii) A Hosting Platform shall not collect or receive a fee for a STR unless the Host has a valid Zoning Certificate at the time the Hosting Platform would otherwise be entitled to receive a fee for the booking transaction.

(iv) Safe Harbor: A Hosting Platform operating exclusively on the internet, which operates in compliance with subsections (i), (ii) and (iii) above, shall be presumed to be in compliance with this Chapter.

J. Housing Code Compliance. Any building or portion thereof used for Short-Term Rentals shall comply with the requirements of the Berkeley Housing Code (BMC Chapter [19.40](#)).

K. Payment of Additional Taxes: The Host shall pay all City taxes and fees owed, in addition to the TOT, if applicable, in a timely manner. [100](#)

L. The Host shall be responsible for listing on any rental ad the Zoning Certificate number. The Host shall also provide both the Business License number, if required pursuant to Chapter [9.04](#), and Zoning Certificate for the STR to the City and/or a vendor hired by the City to administer this Chapter, upon request.

23C.22.060 Remedies

A. Compliance with Second-Response Ordinance. The Host shall comply with the Second Response Ordinance (BMC Chapter [13.48](#)). The Host shall be prohibited from operating Short-Term Rentals for one year upon issuance of a third violation affidavit.

B. Violation of any provision of this Chapter is punishable as set forth in Chapters [1.20](#) and [1.28](#).

C. Violation of any provision of this Chapter is hereby declared to be a public nuisance subject to abatement under Chapters [1.24](#), [1.26](#) and [23B.64](#).

D. In any enforcement action by the City, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs; provided that, pursuant to Government Code Section [38773.5](#), attorneys' fees shall only be available in an action or proceeding in which the City has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of

attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

E. Any resident of the City may bring a private action for injunctive or other relief to prevent or remedy a public nuisance as defined in this Chapter, or to prevent or remedy any other violation of this Chapter. No action may be brought under this subdivision unless and until the prospective plaintiff has given the City and the prospective defendant(s) at least 30 days written notice of the alleged public nuisance and the City has failed to initiate proceedings within that period, or after initiation, has failed to diligently prosecute. The prevailing party in any such action shall be entitled to recover reasonable costs and attorney's fees.

F. Any occurrence at a Short-Term Rental unit that constitutes a substantial disturbance of the quiet enjoyment of private or public property in a significant segment of a neighborhood, such as excessive noise or traffic, obstruction of public streets by crowds or vehicles, public intoxication, the service to or consumption of alcohol by minors, fights, disturbances of the peace, litter or other similar conditions, constitutes a public nuisance.

G. It shall be a public nuisance for any STR Transient of a Short-Term Rental unit where an event is taking place to refuse access to, or interfere with access by, Fire Department or other City personnel responding to an emergency call or investigating a situation.

H. Notwithstanding any provision of Chapter [13.48](#) to the contrary, a public nuisance as defined in this Section shall be subject to remedies set forth in Section [23C.22.060](#). (Ord. 7521-NS § 1 (part), 2017)

I. A violation of this Chapter by a Host Owner who offers or rents a rent controlled unit, multiple ADU's, multiple Accessory Buildings, or a Golden Duplex, may be reported to the Berkeley Rent Stabilization Board for investigation by the Board. Upon report of a violation to the Rent Stabilization Board, the Board is required to provide a written report of the investigation within 30 days. Where a violation is found, the Rent Board will immediately provide the written report supporting its finding of a violation to the City Attorney's office for remedial action by the City.

J. The City may issue and serve administrative subpoenas as necessary to obtain specific information regarding Short-Term Rentals located in the City, including but not limited to, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay, to determine whether the STR and related listing complies with this Chapter. Any subpoena issued pursuant to this section shall not require the production of information sooner than 30 days

from the date of service. A person or entity that has been served with an administrative subpoena may seek judicial review during that 30 day period.



CONSENT CALENDAR
Nov. 9, 2021

To: Honorable Mayor and Members of the City Council
From: Councilmember Taplin
Subject: Streamlining Toxic Remediation in Manufacturing Districts

RECOMMENDATION

Refer to the City Manager and Planning Commission several amendments to the zoning code in order to facilitate toxic remediation in manufacturing districts and to develop a streamlined process that would allow for one application process, rather than separate application processes for the City's Planning Department and the Toxics Division.

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Streamlining toxic remediation in manufacturing districts is a Strategic Plan Priority Project, advancing our goal to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment. Expediting toxic remediation is also a racial equity issue, in light of research showing that environmental hazards are more likely to be sited in minority neighborhoods.¹²³

The current process for toxic remediation in manufacturing districts that require the removal of a building, whether or not it is currently in use, is lengthy and inefficient. There may be some amendments that can be made to the zoning code to make the process much more efficient.

Currently, the City of Berkeley Municipal Code Section 23C.08.050 reads as follows:

Demolitions of Buildings Used for Commercial, Manufacturing or Community, Institutional or Other Non-residential Uses

A. A main building used for non-residential purposes may be demolished subject to issuance of a Use Permit.

¹ Pastor, M., Sadd, J., & Hipp, J. (2001). Which came first? Toxic facilities, minority move-in, and environmental justice. *Journal of urban affairs*, 23(1), 1-21.

² Neumann, C. M., Forman, D. L., & Rothlein, J. E. (1998). Hazard screening of chemical releases and environmental equity analysis of populations proximate to toxic release inventory facilities in Oregon. *Environmental Health Perspectives*, 106(4), 217-226.

³ Bolin, B., Matranga, E., Hackett, E. J., Sadalla, E. K., Pijawka, K. D., Brewer, D., & Sicotte, D. (2000). Environmental equity in a sunbelt city: the spatial distribution of toxic hazards in Phoenix, Arizona. *Global Environmental Change Part B: Environmental Hazards*, 2(1), 11-24.

B. A demolition of an accessory building containing less than 300 square feet of floor area is permitted as of right; an accessory building containing 300 square feet or more of floor area may be demolished subject to an AUP.

C. Any application for a Use Permit or AUP to demolish a non-residential building or structure which is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit or AUP. The LPC may initiate a landmark or structure-of-merit designation or may choose solely to forward to the Board its comments on the application. The Board shall consider the recommendations of the LPC in considering its action on the application.

D. A Use Permit or an AUP for demolition of a non-residential building or structure may be approved only if the Board or Zoning Officer finds that the demolition will not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City, and one of the following findings that the demolition:

1. Is required to allow a proposed new building or other proposed new Use;
2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;
3. Will remove a structure which represents an unabatable attractive nuisance to the public; or
4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project. (Ord. 6478-NS § 4 (part), 1999)

Prior to any demolition, the project must be granted a Use Permit or an AUP, requiring findings, none of which include toxic remediation under a building.

BMC Section 23E.80.909 Paragraph D states that

D. Except as permitted under 23E.80.045, subdivisions A.1 or A.2, in order to approve a Use Permit under Section 23E.80.045 to change the use of or remove more than 25% of the floor area of a building currently or most recently used for manufacturing, wholesale trade or warehousing, the Zoning Officer or Board must find:

1. Any necessary Use Permits that have been approved to provide comparable quality replacement manufacturing, wholesale trade and/or warehousing space in Berkeley at a comparable rent and that such replacement space will be available before the demolition or change of use of the space; or
2. As a result of lawful business and building activities, there are exceptional physical circumstances (exclusive of the presence of hazardous materials in the building(s), soil or groundwater) found at the building not generally found in industrial buildings in the District which make it financially infeasible to reuse the building for any of the range of manufacturing, wholesale trade or warehouse uses permitted in the District. The analysis of the financial feasibility effects

(which shall be verified by the City) of these physical circumstances shall consider those costs necessary to make the building meet current minimum standards for manufacturing, wholesale trade or warehouse buildings; and 3. Appropriate mitigation has been made for loss of the manufacturing, warehousing or wholesale trade space in excess of 25% of that space through providing such space elsewhere in the City, payment into the West Berkeley Building Acquisition Fund, or by other appropriate means.

This requires findings that allow the removal of a building where there are “exceptional physical circumstances,” but such circumstances specifically do not include “presence of hazardous materials in the building(s), soil, or groundwater.”

BACKGROUND

In order to streamline toxic soil remediation, former Councilmembers Wozniak and Moore recommended adding a fifth provision to Chapter 23C.08.050 Paragraph D stating: “It is required to allow the remediation of toxic soil in conformance with DTSC Clean-up Requirements and a City of Berkeley approved toxic clean-up and monitoring program.”

The councilmembers additionally recommended that Chapter 23E.80.090 Findings should be amended to include a new finding number 4 stating that: “As a result of previous building activities there are hazardous materials that are required to be remediated and monitored which could not otherwise be fully characterized, remediated or monitored without demolition of the building(s).”

The City Council approved this referral⁴ to the Planning Commission in 2012, but the Commission failed to address this issue last year. The Commission must be directed to consider the above recommendations to improve the toxic remediation process as soon as possible, with support from city staff as needed.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

More efficient toxic remediation.

CONTACT PERSON

Councilmember Terry Taplin Council District 2 510-981-7120

⁴ https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2012/05May/2012-05-01_Item_20_Amend_the_Zoning_Code_to_Facilitate_Toxic_Remediation.pdf