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

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

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

FISCAL IMPACTS OF RECOMMENDATION  
Staff time.  

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

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

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

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

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

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

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

Right now, many homes across the country contain physical barriers that keep people isolated: difficult to move from room or room, have walkways and hallways
too narrow to accommodate a wheelchair or lack features that allow people to bathe without significant help. Therefore it’s imperative that we find and implement solutions to make homes safer and easier to navigate, especially for people with limited mobility.”

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

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

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

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

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1 https://bit.ly/2LG1VJW
3 https://nyti.ms/2AesvFH
RATIONALE FOR RECOMMENDATION
The conversion of garage to ADU is an example where an existing structure has features that make it potentially very accessible to those with mobility impairment, and choices about door size and layout can make a difference in the future potential uses of the unit. The Commission understands that not every ADU can be accessible to mobility impairments, and that some types of units may not significantly be made more accessible.

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

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

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

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

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

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

CITY MANAGER
The City Manager concurs with the content and recommendations of the Commission’s Report.

CONTACT PERSON
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Attachments:
1: Resolution
RESOLUTION NO. -N.S.

EMPHASIZE ACCESSIBILITY IN ALTERNATIVE DWELLING UNITS (ADUS)

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

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

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

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

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

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