Extension of ADU Urgency Ordinance

Presented by Planning Department and Fire Department
City Council Meeting January 21, 2020
What is an Urgency Ordinance?

• State law allows jurisdictions to adopt urgency ordinances
• Expedite the adoption process – take effect immediately
  • Standard process to adopt Zoning Ordinance amendments takes approximately three months
  • Requires 1 Public Hearing at Planning Commission, 1 Public Hearing at City Council, a 2\textsuperscript{nd} reading at City Council, and 30-days to enact
• Necessary to protect public health, safety and welfare of residents
ADU Urgency Ordinance adopted on 12/10/19

Per California Government Code Section 65858
• Adoption with 7/9 vote of City Council
• Did not need a public hearing
• In effect for 45 days (expires January 24)

• Ordinance can be extended for 10 months 15 days with:
  • Publication of a report explaining action taken to address conditions
  • Public hearing
  • 7/9 vote of City Council
Why COB Needs an Urgency Ordinance?

Assembly Bill 881 was signed by Governor Newsom on October 9, 2019

• Significantly relaxes ADU regulations
• Came into effect on January 1, 2020
• Nullified Berkeley’s existing ADU ordinance
• Removed existing local protections in Berkeley’s Fire Zones 2 and 3
AB 881 Establishes Statewide Standards for ADUs

• Requires ministerial approval of ADU applications
  • Did not allow “grandfathering” of projects in pipeline or AUP approvals

• Allows ADUs in all districts zoned for residential use

• Dictates development standards

• Allows prohibition of ADUs in areas where they create an impact to public health
Local Protections Removed by AB 881

Fire Zone 3:
No ADUs allowed

Fire Zone 2:
Discretionary review of ADUs and project specific mitigation on streets <26 feet wide
Public Safety is Berkeley’s Number One Priority

Local protections address hazardous conditions in Fire Zones 2 and 3

- Urban Wildland Interface
- Seismic Zone
- Landslide Zone
- Liquefaction Zone
- Very High Hazard Severity Zone

Local protections reflect citywide efforts (i.e. Local Hazard Mitigation Plan and Safe Passages Program)
Emergency Access Challenges for First Responders

- Narrow, Winding Roads → large emergency vehicles
- Lot Configuration → increased distance to buildings
- Steep Slopes → challenging terrain
- On-street Parking → obstacles for emergency vehicles
- Increased Density → more people and more structures

Fire Operation Equipment Needs
- Unobstructed ingress and egress
- Minimum distance to fire hydrants
- Available street width
Urgency Ordinance Provides Interim Protections

• Fire Zone 3
  • Urgency Ordinance prohibits ADUs in Fire Zone 3
    ➢ This is consistent with COB’s previous (2019) ADU Ordinance

• Fire Zone 2
  • Urgency Ordinance prohibits ADUs in Fire Zone 2 on roads <26 feet in width
    ➢ Previous ADU Ordinance allowed ADUs with discretionary review on roads <26 feet in width (e.g. site and project specific analysis, mitigation measures as condition of approval)
    ➢ AB 881 does not allow discretionary review
Actions Since Urgency Ordinance Adoption

- Review and verbal approval of Urgency Ordinance from HCD
- Participating in ADU Working Group -- comprised of >15 Alameda County cities and representatives from HCD and MTC
- Published (and continue to update) ADU Ordinance Summary Sheet that outlines interpretation of State Law (available on COB website)
- Planning Staff (LUP, PSC, Admin) supporting residents by answering questions / reviewing applications / compiling email interest list
- As early adopters, have provided guidance/support to jurisdictions throughout California
Next Steps

• Planning Department is awaiting California Department of Housing and Community Development (HCD) guidance documents on AB 881 (anticipated in January 2020)

• Planning Department and Fire Department will work together on AB 881-compliant Zoning Ordinance amendments that provide protections in Fire Zones 2 and 3

• Planning Department and Fire Department will work with Planning Commission, Disaster and Fire Safety Commission, and City Council on review and adoption of permanent ADU Ordinance via standard public process.
### Timeline

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<thead>
<tr>
<th>Date</th>
<th>Action</th>
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<tbody>
<tr>
<td>November 6, 2019</td>
<td>Planning Commission introduced to AB 881</td>
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<td>December 10, 2019</td>
<td>City Council adopts urgency ordinance for 45 days (until January 25, 2020)</td>
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<tr>
<td>January 21, 2020</td>
<td>City Council extends Urgency Ordinance until adoption of permanent ADU ordinance (anticipated Spring 2020)</td>
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<td>January 2020 (TBD)</td>
<td>HCD publishes guidance document</td>
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<td>February 5, 2020</td>
<td>Planning Commission discusses options for local, AB 881-compliant ADU Ordinance</td>
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<td>February – June 2020</td>
<td>Planning Department and Fire Department work with Planning Commission, Disaster and Fire Safety Commission to develop/recommend permanent ADU ordinance to City Council</td>
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### Questions