



Planning Commission

AGENDA

REGULAR MEETING OF THE PLANNING COMMISSION

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Wednesday, April 7, 2021

7:00 PM

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH VIDEOCONFERENCE AND TELECONFERENCE Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the Planning Commission (PC) will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID19 virus, there will not be a physical meeting location available.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://zoom.us/j/95984363204>. 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 by rolling over the bottom of the screen.

To join by phone: Dial **1 669 900 6833** and enter Meeting ID: **959 8436 3204**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

Please be mindful that the video conference and teleconference will be recorded. All rules of procedure and decorum that apply for in-person Planning Commission meetings apply for Planning Commission meetings conducted by teleconference or videoconference.

See **"MEETING PROCEDURES"** below.

All written materials identified on this agenda are available on the Planning Commission webpage:[https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning Commission_Homepage.aspx](https://www.cityofberkeley.info/Clerk/Commissions/Commissions_Planning_Commission_Homepage.aspx)

PRELIMINARY MATTERS

- 1. Roll Call:** **Wiblin, Brad**, appointed by Councilmember Kesarwani, District 1
Vincent, Jeff, appointed by Councilmember Taplin, District 2
Schildt, Christine, appointed by Councilmember Bartlett, District 3
Lacey, Mary Kay, appointed by Councilmember Harrison, District 4
Beach, Benjamin, appointed by Councilmember Hahn, District 5

Kapla, Robb, Chair, appointed by Councilmember Wengraf, District 6
Krpata, Shane, Vice Chair, appointed by Councilmember Robinson, District 7
Hauser, Savlan, appointed by Councilmember Droste, District 8
Ghosh, Barnali, appointed by Mayor Arreguin

2. **Order of Agenda:** The Commission may rearrange the agenda or place items on the Consent Calendar.
3. **Public Comment:** Comments on subjects not included on the agenda. Speakers may comment on agenda items when the Commission hears those items. (See “Public Testimony Guidelines” below):
4. **Planning Staff Report:** In addition to the items below, additional matters may be reported at the meeting.
5. **Chairperson’s Report:** Report by Planning Commission Chair.
6. **Committee Reports:** Reports by Commission committees or liaisons. In addition to the items below, additional matters may be reported at the meeting.
7. **Approval of Minutes:** Approval of Draft Minutes from the meeting on **March 17, 2021**.
8. **Future Agenda Items and Other Planning-Related Events:**

AGENDA ITEMS: All agenda items are for discussion and possible action. Public Hearing items require hearing prior to Commission action.

9. **Action:** **Response to Short Term Referral for Amendments to the ADU Ordinance and Related Definitions to Address Public Safety Concerns**

Recommendation: Hold a public hearing, review and comment on the proposed amendments to ADU Ordinance, and make a recommendation for the consideration of City Council.

Written Materials: Attached

Presentation: N/A

10. **Action:** **Response to Support Small Businesses Referral: Amendments to the Sign Ordinance to Establish a Master Sign Program**

Recommendation: Hold a public hearing and consider amendments to Berkeley’s Sign Ordinance and corresponding references in the Zoning Ordinance to make a recommendation for the consideration of City Council.

Written Materials: Attached

Presentation: N/A

ADDITIONAL AGENDA ITEMS: In compliance with Brown Act regulations, no action may be taken on these items. However, discussion may occur at this meeting upon Commissioner request.

Information Items:

- City Council Item – March 23
Objective Standards Recommendations for Density, Design and Shadows From: Joint Subcommittee for the Implementation of State Housing Laws
- City Council Item – March 25
Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update

Communications:

- March 30 - CA Department of Food and Agriculture – Cannabis Appellations Program
- March 31 – Business Owner – Berkeley Marina Kosher Supermarket

Late Communications: (Received after the packet deadline):

- Supplemental Packet One – received by noon two days before the meeting
- Supplemental Packet Two
- Supplemental Packet Three

ADJOURNMENT

**** **MEETING PROCEDURES** ****

Public Testimony Guidelines:

All persons are welcome to attend the virtual meeting and will be given an opportunity to address the Commission. Speakers are customarily allotted up to three minutes each. The Commission Chair may limit the number of speakers and the length of time allowed to each speaker to ensure adequate time for all items on the Agenda. Customarily, speakers are asked to address agenda items when the items are before the Commission rather than during the general public comment period. Speakers are encouraged to submit comments in writing. See “Procedures for Correspondence to the Commissioners” below.

Procedures for Correspondence to the Commissioners:

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Written comments must be directed to the Planning Commission Secretary at the Land Use Planning Division (Attn: Planning Commission Secretary), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: apearson@cityofberkeley.info. All materials will be made available via the Planning Commission agenda page online at this address: <https://www.cityofberkeley.info/PC/>.

Correspondence received by **12 noon, nine days** before this public meeting, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public meeting, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public meeting.
- Correspondence received after the above deadline and before the meeting will be included in a second and/or third Supplemental Packet, as needed, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public meeting.

Note: It will not be possible to submit written comments at the meeting.

Communications are Public Records: Communications to Berkeley boards, commissions, or committees are public records and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission, or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service, or in person, to the Secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary to the relevant board, commission, or committee for further information.

Communication Access: To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

Meeting Access: To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist, at 981-6418 (V) or 981-6347 (TDD), at least three (3) business days before the meeting date.

I hereby certify that the agenda for this regular meeting of the Planning Commission 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 **April 1, 2021**.

Alene Pearson
Planning Commission Secretary



Planning Commission

1 **DRAFT MINUTES OF THE SPECIAL PLANNING COMMISSION MEETING**
2 **March 17, 2020**

3 The meeting was called to order at 7:03 p.m.

4 **Location:** Virtual meeting via Zoom

5 **1. ROLL CALL:**

6 **Commissioners Present:** Benjamin Beach (arrived at 7:35pm), Barnali Ghosh, Savlan
7 Hauser, Robb Kapla, Shane Krpata, Mary Kay Lacey, Christine Schildt, and Brad Wiblin.

8 **Commissioners Absent:** Jeff Vincent.

9 **Staff Present:** Secretary Alene Pearson, Katrina Lapira, Paola Boylan, and Justin Horner.

10 **2. ORDER OF AGENDA:** No changes.

11 **3. PUBLIC COMMENT PERIOD:** 0

12 **4. PLANNING STAFF REPORT:**

- 13
- 14 • On-going staff projects:
 - 15 ○ Housing Element Update
 - 16 ○ Audit of RHNA numbers from 2015-2019
 - 17 ○ General Plan Annual Progress Report 2020
 - 18 ○ Housing Element Annual Progress Report 2020

19 **Information Items:**

- 20 • City Council - ADU Referral
 - 21 • City Council – Parking Reform Action
 - 22 • City Council – Home Occupations Action
 - 23 • City Council – End Exclusionary Housing Resolution
- 24

25 **Communications:**

- 26 • January 22 – Staff, Surveys and Town Hall Information

27 **Late Communications:** *See agenda for links.*

- 28 • Supplemental Packet One
- 29 • Supplemental Packet Two
- 30 • Supplemental Packet Three

31 **5. CHAIR REPORT:**

- 32 • Congrats on parking reform efforts!
33

34 **6. COMMITTEE REPORT:** Reports by Commission committees or liaisons. In addition to the
35 items below, additional matters may be reported at the meeting.
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- 37 • Concurrent Gentrification and Displacement Subcommittee - Held concurrent meetings
38 with members of the Housing Advisory Commission in February and March to discuss
39 and plan an upcoming workshop to address the Gentrification and Displacement referral.
40 The next meeting will be held in April.
41
- 42 • BART Community Advisory Group (CAG) – Held a community meeting in February,
43 where members provided feedback on BART site land uses, design, and other aspects of
44 these projects. The next CAG meeting March 22 at 6pm.

45 **7. APPROVAL OF MINUTES:**

46 Motion/Second/Carried (Ghosh/Krpata) to approve the Planning Commission Meeting Minutes
47 from February 3, 2021, with incorporated amendments to lines 74-75, 89, and 96.
48

49 Ayes: Ghosh, Hauser, Kapla, Krpata, Lacey, Schildt, and Wiblin. Noes: None. Abstain: None.
50 Absent: Beach and Vincent. (7-0-0-2)
51

52 **8. FUTURE AGENDA ITEMS AND OTHER PLANNING:**

- 53 • April 7
54 ○ Local ADU Ordinance
55 ○ Master Sign Program
56
- 57 • May 5
58 ○ Re-zone of Parcels to Commercial Adeline Corridor (C-AC)
59 ○ Presentation on City-Wide Affordable Housing Requirements by Rick Jacobus

60 **AGENDA ITEMS**

61 **9. Action: *Planning Commission 2021-2022 Work Plan***

62 Commissioner Krpata presented the Draft Planning Commission Work Plan, reviewing how
63 the referrals were assessed in relation to three strategic outcome areas and other
64 considerations.

65 Motion/Second/Carried (Krpata/ Beach) to approve the PC Work Plan subject to added
66 language by Commissioner Ghosh and reviewed by Chair Kapla concerning environmental
67 resiliency and the removal of language under Special Considerations on lines 31 and 48.
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Ayes: Beach, Ghosh, Hauser, Kapla, Krpata, Lacey, Schildt, and Wiblin. Noes: None. Abstain: None. Absent: Vincent. (8-0-0-1)

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Public Comments: 0

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10. Action: ZORP Subcommittee

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The Commission appointed three members to re-establish the ZORP subcommittee. Subcommittee members will engage in Phase II of ZORP, focusing on substantive changes to the Zoning Ordinance.

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Motion/Second/Carried (Kapla/Ghosh) to nominate Chair Kapla and Commissioners Vincent and Wiblin to the ZORP subcommittee.

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Ayes: Beach, Ghosh, Hauser, Kapla, Krpata, Lacey, Schildt, and Wiblin. Noes: None. Abstain: None. Absent: None (8-0-0-1)

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Public Comments: 0

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Motion/Second/Carried (Kapla/Beach) to adjourn the Planning Commission meeting at 8:13pm.

Ayes: Beach, Ghosh, Hauser, Kapla, Krpata, Lacey, Schildt, Vincent, and Wiblin. Noes: None. Abstain: None. Absent: None (9-0-0-0)

92

Members in the public in attendance: 3

93

Public Speakers: 1 speakers

94

Length of the meeting: 1hr 10 minutes



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: April 7, 2021

TO: Members of the Planning Commission

FROM: Alene Pearson, Principal Planner
Katrina Lapira, Assistant Planner

SUBJECT: Response to Short Term Referral for Amendments to the Accessory Dwelling Units (ADU) Ordinance and Related Definitions to Address Public Safety Concerns

RECOMMENDATION

Review proposed amendments to Berkeley's ADU Ordinance that respond to City Council's short term referral requesting increased safety measures, hold a public hearing, and provide feedback that includes a recommendation for City Council consideration.

BACKGROUND

On January 26, 2021 City Council referred to the City Manager development of Zoning Ordinance amendments and Fire Code amendments that address emergency access and egress challenges created by new State ADU laws (see Attachment 2 for referral and Link 1 for information on new State ADU laws). Requested amendments to the zoning code involve limitations on the base maximum size of an ADU and required compliance with objective development standards such as front yard setbacks, open space and/or lot coverage. Requested amendments to the Fire Code involve parking restrictions and fire sprinkler requirements. The goal of this referral is to mitigate adverse impacts of ADU development and increased density in Berkeley's high fire hazard safety zones and on narrow roads.

New State ADU law came into effect on January 1, 2020, significantly reducing local jurisdictions' abilities to regulate ADU development. In general, the new ADU law requires over-the-counter approval of at least one ADU on all lots that have at least one proposed or existing dwelling unit. This includes lots with single family homes, lots with multifamily dwellings, and mixed use lots that have at least one dwelling unit.

State law mandates that ADUs must be approved ministerially – which means only a Building Permit can be required, and it must be issued “over the counter” with no discretion if it meets the basic requirements of the law and local ordinance. Statewide development standards for new ADUs include a maximum size of 1,200 square feet, a maximum height of 16 feet, and side and rear setbacks of no more than 4 feet. Berkeley rescinded its local ordinance and adopted the State regulations by default in order to maintain compliance with the law, which specifically superseded and voided any conflicting local ordinances.

The Council referral and this report respond to provisions in State law that allow local jurisdictions to adopt ordinances with some additional development standards, such as usable open space, lot coverage, and design criteria, as long as they comply with State law and allow an ADU with a maximum size of at least 800 square feet, a maximum height of at least 16 feet, and side and rear setbacks of no more than 4 feet on all lots with at least one proposed or existing dwelling unit. The State does not establish regulations for front yard setbacks.

In the past six years, Berkeley’s ADU Ordinance has been modified multiple times to conform to State law and to facilitate the construction of ADUs. Berkeley’s ADU Ordinance was adopted by City Council in November 2015, then amended in March 2017, May 2018, and December 2019. In each of these iterations, the City took steps to ensure public safety in fire-prone areas such as the Environmental Safety Residential (Berkeley’s Fire Zone 3) district and lots with frontage on narrow roads in the Hillside Overlay district (Berkeley’s Fire Zone 2. In 2015 and 2017, this was accomplished by requiring an Administrative Use Permit (AUP) in Fire Zones 2 and 3 (see Attachment 3 for a map of fire zones) with findings for “sufficient fire flow and water pressure”. In 2018, the AUP Findings were modified to require “minimum fire safety requirements.” In 2019, when State ADU law no longer allowed discretionary permits such as ADUs, the City prohibited ADUs in Fire Zones 2 and 3. In September of 2020, California Department of Housing and Community Development (HCD) published guidance on State ADU law stating that geographic prohibitions for public safety reasons, such as the one Berkeley implemented, were not allowed.

Up until 2019, the City’s efforts to ensure public safety were primarily achieved by requiring an AUP for ADU projects in Fire Zones 2 and 3. An AUP is a discretionary permit that allows public review and evaluations by staff in the Planning Department to consult with other departments including the Fire Department to determine whether there would be detrimental impacts of the project and, if so, to require design changes, such as requiring fire sprinklers, adjusting the location of the ADU on the lot, and/or requiring off-street parking. State law has now eliminated the exercise of this discretion so these public safety measures are only available through implementation of the Fire Code, which limits the range of measures that can be required, particularly regarding the location of the unit and off-street parking.

To address this shortcoming in State ADU law, City Council referred to the City Manager amendments to the Zoning Ordinance and the Fire Code aimed at reducing impacts of additional density in Fire Zones 2 and 3. The Disaster and Fire Safety Commission (DFSC) is considering recommendations for code amendments to address emergency access and egress impacts of on-street parking and fire sprinkler requirements. Planning Commission is asked to consider objective standards to limit ADU sizes and to require front yard setbacks for new construction. Draft Zoning Ordinance amendments are presented in the Discussion section below.

Prior to the latest revisions to the State’s ADU regulations, Planning Commission was considering additional amendments to the local ADU Ordinance to facilitate the construction of ADUs. However, State law that came into effect on January 1, 2020 allows for a great amount of flexibility which has streamlined the ADU permitting process significantly. This is illustrated in Table 1, where Berkeley’s progress on ADU permitting is provided. For this reason, and because of the short term nature of this referral, the focus of this referral response is narrow and the need for additional amendments will be assessed (and implemented) as part of the Housing Element update.

Table 1
ADUs Permitted by Year

Year	2015	2016	2017	2018	2019	2020
#	1	16	74	80	96	119

DISCUSSION

Berkeley’s ADU Ordinance was repealed with an Urgency Ordinance in December 2019 that referenced California Government Code Section 65852.2 [State ADU Law] (See Link 2). In order to address the referral, Planning Commission must adopt a newly written ADU Ordinance to replace Berkeley Municipal Code (BMC) Chapter 23C.24 [Accessory Dwelling Units] and amendments to related definitions in BMC Chapter 23F.04 [Definitions]. Staff relied on the Technical Assistance Handbook released by HCD for guidance (see Link 1).

In the following sections, the more complex Development Standard amendments are explained. Where the draft Zoning Ordinance is more lenient than the State, a rationale is provided below.

23C.24.010 Applicability

ADUs on lots with Group Living Accommodations: The State is silent on whether or not ADU Law applies to GLAs. Over the past year, the Zoning Officer interpreted State ADU law to extend to GLAs (excluding Fraternity Houses, Sorority Houses or Dormitories) by allowing one ADU per lot with a GLA. GLAs are a common residential use in Berkeley and this interpretation was consistent with the State’s direction to facilitate ADU

production. ADUs on lots with GLA must not be offered as an extension of the GLA, but rented as an independent unit. For consistency with this interpretation, Chapter 23C.24 applies to lots with GLAs.

23C.24.040 Development Standards

Maximum Size: The referral asks that Berkeley implement size restrictions on ADUs. With no local ordinance, an ADU with a maximum size of no less than 1200 square feet is allowed. With adoption of a local ordinance, an ADU with a maximum size of no less than 850 or 1000 square feet is allowed (depending upon the number of bedrooms). If a jurisdiction chooses to adopt and apply local objective standards, the maximum size of an ADU can be no less than 800 square feet.

Draft Zoning Ordinance amendments codify these regulations. The section pertaining to Maximum Heights is provided below and further explained in the bullets.

C. Maximum Size

- 1. The maximum size of an ADU in the Very High Fire Hazard Severity Zone is 800 square feet.*
 - 2. The maximum size of a studio or one bedroom ADU is 850 square.*
 - 3. The maximum size of an ADU with two or more bedrooms is 1000 square feet.*
 - 4. An ADU created by conversion or addition to a nonconforming building or structure may only alter original building or structure size, location and dimensions by adding 150 square feet. Additions shall conform with the standards in this Chapter. Other modifications to existing nonconforming buildings and structures are not permitted.*
 - 5. The maximum size of a JADU is 500 square feet.*
- Size restrictions of 800, 850 square feet and 1000 square feet are imposed only on newly constructed ADUs; ADUs that are entirely “carved out” or converted from existing buildings or structures are not subject to these size limitations.
 - Newly constructed ADUs in Very High Fire Hazard Severity Zone (VHFHSZ) are limited in size to 800 square feet. The VHFHSZ is the chosen geography as it is the designation recognized by the State, all of Fire Zone 3 falls within this geography, and many of the narrow roads in Fire Zone 2 fall within this geography. This geographic objective standard limits ADU size, thereby ensuring that lots with an ADU provide the maximum amount of allowable space for emergency access and egress in the event of a disaster.
 - Per State law, nonconforming buildings and structures may be converted to ADUs – they can also be demolished and rebuilt in kind; however, they can only be modified by adding 150 square feet of floor area.

Usable Open Space and Lot Coverage: The referral asks that Berkeley introduce objective standards for Open Space and Lot Coverage to provide guidance on ADU size. Draft amendments accomplish size limitations by utilizing the VHFHSZ geography

and ADU characteristics (number of bedrooms), so additional objective standards are not required.

Setbacks: The referral asks that Berkeley introduce objective standards to provide guidance on setbacks. State law explicitly states that side and rear setbacks can be no more than 4 feet and is silent on front yard setbacks. Proposed amendments utilize setbacks of the underlying zoning district, as requested in the referral.

D. The required rear and side setbacks are 4 feet, unless a lesser setback is allowed for a comparable Accessory Building or Accessory Structure in the underlying zoning district.

E. The required front yard is the same as is established in the underlying zoning district, and is subject to reductions as provided by this Title for the building in which the ADU will be located.

- Draft amendment are more lenient than the State if the underlying zoning district has a rear or side setback of less than four feet. In such a case, the project can request a reduction of the required 4 foot setback if reduced standards for comparable Accessory Buildings and Structures are codified.
- Front yard setbacks are imposed. These standards will not limit the ability for a property owner to build an ADU – instead they require objective standards for placement of the ADU on the lot. Reductions in this setback will be considered per processes outlined for Main Buildings and Accessory Buildings in the Zoning Ordinance.

The other Development Standards and Definitions provided in the draft amendments (Maximum Height, architectural features, building separation, and parking) provide consistency with the BMC and with State law and are codified for clarity.

NEXT STEPS

Planning Commission is asked to hold a public hearing, receive and provide comment on the proposed Zoning Ordinance amendments, and make a recommendation for consideration by the City Council. Staff is working with the DFSC and Fire Department staff to coordinate a response that addresses both the Zoning Ordinance and Fire Code amendments requested in this referral.

ATTACHMENTS

1. Draft Ordinance
2. City Council ADU Referral (Annotated Meeting Minutes from January 26, 2021)
3. Map of Very High Fire Hazard Severity Zone
4. Public Hearing Notice

LINKS

1. Department of Housing and Community Development Accessory Dwelling Unit Handbook
https://www.hcd.ca.gov/policy-research/docs/ADU_December_2020_Handbook.pdf
2. State ADU Law Government Code Section 65852.2
https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65852.2&lawCode=GOV

1
2
Chapter 23C.24
Accessory Dwelling Units

3 ~~NOTE: Chapter 23C.24 is repealed by operation of law, effective December 6, 2020. (See Ord. 7685-NS;~~
4 ~~Gov. Code A§ 65858(a)65858(a).)~~

5 Sections:

6 [23C.24.010](#) Applicability of Regulations

7 [23C.24.020](#) Purposes

8 [23C.24.030](#) Permit Procedures

9 [23C.24.040](#) ~~Repealed by Ord. 7683-NS, Development Standards~~

10 [23C.24.050](#) ~~Repealed by Ord. 7683-NS, Special Provisions~~

11 ~~[23C.24.060](#) Repealed by Ord. 7683-NS.~~

12 ~~[23C.24.070](#) Repealed by Ord. 7683-NS.~~

13 **23C.24.010 Applicability of Regulations**

14 A. ~~The provisions of this Chapter apply to all lots that have at least one existing or proposed Dwelling~~
15 ~~Unit or Group Living Accommodation that is not a Fraternity House, Sorority House or Dormitory.~~

16
17 B. ~~ADUs and JADUs are allowed on lots as follows:~~

18 ~~1. One ADU is allowed on a lot with one Single Family Dwelling.~~

19 ~~2. One ADU is allowed on a lot with multiple Single Family Dwellings.~~

20 ~~3. For lots with a Duplex or Multiple Dwelling Uses, one of the following is allowed:~~

21 ~~a. Two detached ADUs; or~~

22 ~~b. At least one ADU created from non-habitable portions of the existing dwelling structure (e.g.~~
23 ~~basement, attic, storage room). The maximum number of ADUs created from non-habitable~~
24 ~~portions of the existing dwelling structure shall not exceed 25% of the number of existing~~
25 ~~Dwelling Units on the lot.~~

26 ~~4. One ADU is allowed on a lot with a Group Living Accommodation that is not a Fraternity House,~~
27 ~~Sorority House or Dormitory.~~

28 ~~5. One JADU is allowed on a lot with one Single Family Dwelling.~~

29 ~~The provisions of this Chapter apply to all lots that are zoned for residential use except 1) in the following~~
30 ~~zoning districts: Environmental Safety Residential (ES-R), Manufacturing (M), Mixed Manufacturing (MM),~~
31 ~~Mixed Use Light Industrial (MU-LI), and Unclassified (U); and 2) on a lot with frontage on a roadway with less~~
32 ~~than 26 feet in pavement width in the Hillside Overlay. (Ord. 7685-NS § 2 (part), 2020; Ord. 7683-NS § 2 (part),~~
33 ~~2019; Ord. 7599-NS § 2 (part), 2018)~~

34 **23C.24.020 Purposes**

35 The purposes of this Chapter are to:

36 A. Implement California Government Code Section [65852.2](#) and [65852.22](#).

37
38 B. Increase overall supply and range of housing options in Berkeley.

39
40 C. Expedite small-scale infill development.

41
42 D. Support Housing Element goals of facilitating construction of Accessory Dwelling Units and increasing
43 the number of housing units that are more affordable to Berkeley residents.
44

45 E. Encourage development of Accessory Dwelling Units in zoning districts with compatible land uses
46 and infrastructure.

47
48 F. ~~Reduce potential impacts of new development in high fire hazard severity areas. (Ord. 7685-NS § 2~~
49 ~~(part), 2020: Ord. 7683-NS § 2 (part), 2019: Ord. 7599-NS § 2 (part), 2018)~~

50 **23C.24.030 Permit Procedures**

51 A. ~~An application for an ADU or JADU is subject to ministerial building permit review. Review must be~~
52 ~~completed within 60 days of submission of a complete application.~~

53
54 B. ~~If an application to create an ADU or JADU is submitted as part of a project that requires discretionary~~
55 ~~review, a building permit shall not be issued for the ADU or JADU until the discretionary approval(s)~~
56 ~~has/have been granted and any applicable appeal periods have expired.~~

57 ~~Zoning Certificates will be issued for Accessory Dwelling Units and Junior Accessory Dwelling Units per~~
58 ~~California Government Code Section 65852.2 and 65852.22. (Ord. 7685-NS § 2 (part), 2020: Ord. 7683-NS § 2~~
59 ~~(part), 2019: Ord. 7599-NS § 2 (part), 2018)~~

60 **23C.24.040 Special Provisions Development Standards**

61 A. ~~Development Standards in paragraphs B through G, below, apply as follows:~~

62 1. ~~A new free-standing ADU is subject to Development Standards for ADUs.~~

63 2. ~~An ADU, converted entirely from an existing building or structure, is not subject to Development~~
64 ~~Standards for ADUs. These include:~~

65 a. ~~An ADU created entirely within an existing Single Family Dwelling.~~

66 b. ~~An ADU created entirely within the existing non-habitable space of a Duplex or Multiple Dwelling~~
67 ~~Use.~~

68 c. ~~An ADU created entirely within an existing detached Accessory Structure or Accessory Building.~~

69 3. ~~An ADU, fully or partially created by an addition of square footage to or changes in roof height of an~~
70 ~~existing Single Family Dwelling, Accessory Building or Accessory Structure, is subject to Development~~
71 ~~Standards for ADUs as follows:~~

72 a. ~~Paragraph B applies to entire ADU.~~

73 b. ~~Paragraphs C through G apply to new square footage and roof design.~~

74 4. ~~An ADU created within a building or structure that was rebuilt in the same location and with the same~~
75 ~~dimensions as the building or structure demolished is not subject to Development Standards for ADUs.~~

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77 B. ~~Maximum Size~~

78 1. ~~The maximum size of an ADU in the Very High Fire Hazard Severity Zone is 800 square feet.~~

79 2. ~~The maximum size of a studio or one bedroom ADU is 850 square.~~

80 3. ~~The maximum size of an ADU with two or more bedrooms is 1000 square feet.~~

81 4. ~~An ADU created by conversion or addition to a nonconforming building or structure may only alter~~
82 ~~original building or structure size, location and dimensions by adding 150 square feet. Additions shall~~
83 ~~conform with the standards in this Chapter. Other modifications to existing nonconforming buildings~~
84 ~~and structures are not permitted.~~

85 5. ~~The maximum size of a JADU is 500 square feet.~~

86

87 C. ~~Maximum Height is applied to ADUs as follows. See Chapter 23F.04 for definition.~~

88 a) ~~Maximum Height of a new free-standing ADU is 16 feet.~~

89 b) ~~Maximum Height of an addition to a Single Family Dwelling is the same as is established in the~~
90 ~~underlying zoning district as provided by this Title for the building in which the ADU will be located.~~

91 c) ~~Maximum Height of new square footage added to an Accessory Building or Accessory Structure to~~
92 ~~create an ADU is 16 feet.~~

93

94 ~~G.D. The required rear and side setbacks are 4 feet, unless a lesser setback is allowed for a comparable~~
95 ~~Accessory Building or Accessory Structure in the underlying zoning district.~~

96
97 E. The required front yard is the same as is established in the underlying zoning district, and is subject to
98 reductions as provided by this Title for the building in which the ADU will be located.
99

100 F. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment,
101 Eaves, Cornices, Canopies, Awnings and Bay Window) may project two feet into the required setbacks, so
102 long as there remains at least a three-foot setback from property lines.
103

104 G. Separation between an ADU and buildings and/or structures on a lot must be four feet.
105

106 H. Parking

107 1. Off-street parking is not required.

108 2. Replacement parking is not required, but is allowed if in compliance with Chapter 23D.12 and/or
109 Chapter 23E.28.

110
111 ~~Repealed by Ord. 7683-NS. (Ord. 7599-NS § 2 (part), 2018)~~

112 **23C.24.050 Development Standards Special Provisions**

113 A. A rooftop deck may be established provided that the entire roof, deck and railing comply with Development
114 Standards for ADUs.
115

116 B. A JADU must be owner-occupied. For purposes of this paragraph, "owner-occupied" means that a person
117 with legal title to the property must reside in either the Single Family Dwelling or the JADU as their legal
118 permanent residence.
119

120 C. The property owner shall file a deed restriction with the County Recorder providing that:

121 1. The ADU and/or JADU shall not be sold separately from the Dwelling Unit.

122 2. The ADU and/or JADU shall not be rented for a term that is shorter than 30 days.

123 ~~Repealed by Ord. 7683-NS. (Ord. 7599-NS § 2 (part), 2018)~~

124 ~~23C.24.060 Modification of Development Standards with an Administrative Use Permit~~

125 ~~Repealed by Ord. 7683-NS. (Ord. 7599-NS § 2 (part), 2018)~~

127 **23F.04.010 Definitions – TO BE AMENDED**

128 **Accessory Dwelling Unit:** A secondary Dwelling Unit that is located on a lot with a proposed or existing Single
129 Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living Accommodation, which is occupied by one
130 legally established Single Family Dwelling that conforms to the standards of Section 23C.24. An Accessory
131 Dwelling Unit must comply with local building, housing, safety and other code requirements and provide the
132 following features independent of the Single Family Dwelling, Duplex, Multiple Dwelling Use, or Group Living
133 Accommodation: 1) exterior or independent access to Accessory Dwelling Unit; 2) living and sleeping quarters;
134 3) a full kitchen; and 4) a full bathroom. An Accessory Dwelling Unit also includes the following:

135 A. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

136 B. A manufactured home, as defined in Section 18007 of the Health and Safety Code.
137

138 **Efficiency Kitchen:** A kitchen that includes a sink, a cooking facility with appliances (e.g. microwave, toaster,
139 oven, hot plate), and food preparation counter space and cabinets.

140 Junior Accessory Dwelling Unit: A unit that is contained within the walls of a Single Family Dwelling and
141 includes a separate exterior entrance. A JADU may not be located in an Accessory Building or an Accessory
142 Structure. A JADU may include separate sanitation facilities, or may share sanitary facilities with a Single Family
143 Dwelling. At a minimum, a JADU shall include an Efficiency Kitchen with a working refrigerator.
144

145 **23F.04.010 Definitions – TO BE DELETED**

146 Primary Dwelling Unit: A legally established Single Family Dwelling that is on a lot with an Accessory
147 Dwelling Unit.
148

149
150

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, January 26, 2021
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

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

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/87354849181>. 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 by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **873 5484 9181**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

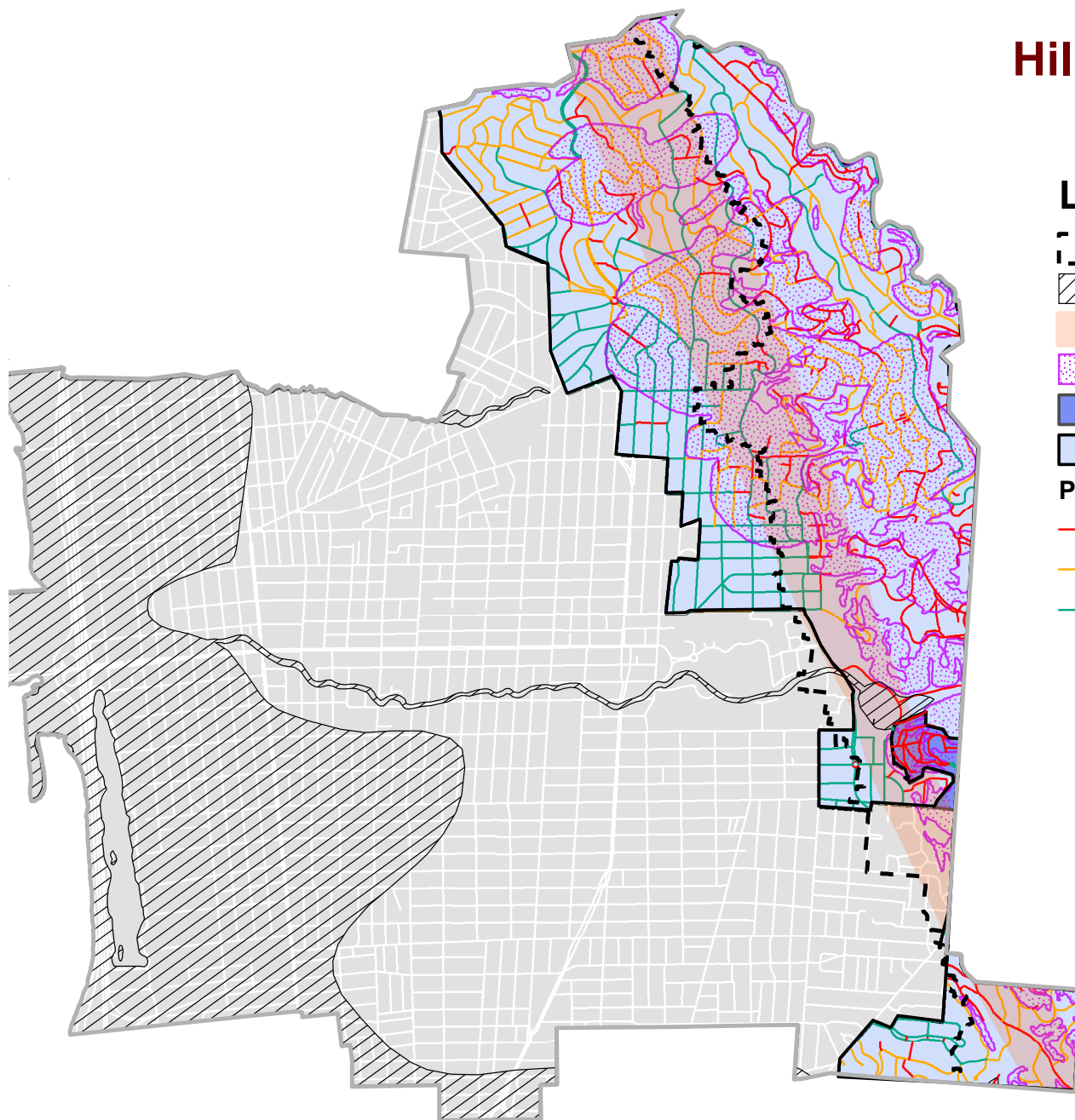
To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.










This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

10. **Budget Referral to Reinstate Partial Funding for the Gun Buyback Program Previously Authorized by City Council** *(Continued from November 10, 2020)*
From: Councilmember Kesarwani (Author), Mayor Arreguin (Co-Sponsor), Councilmember Davila (Co-Sponsor)
Recommendation: Refer to the FY 2020-21 November Amendment to the Annual Appropriations Ordinance (AAO #1) \$40,000 to reinstate partial funding for the Gun Buyback Program—originally proposed by Councilmember Cheryl Davila and authorized by the City Council on Nov. 27, 2018.
Financial Implications: \$40,000
Contact: Rashi Kesarwani, Councilmember, District 1 (510) 981-7110
Action: Approved recommendation revised to be a referral to the FY 2022 budget process.
11. **Short Term Referral to City Manager, Disaster and Fire Safety Commission and Planning Commission to Amend Local Accessory Dwelling Unit (ADU) Zoning Ordinance and Berkeley's Fire Code**
From: Councilmember Wengraf (Author), Councilmember Hahn (Co-Sponsor)
Recommendation: Refer to the City Manager, the Disaster and Fire Safety Commission and the Planning Commission to evaluate and recommend to Council within 90 days, a set of ordinance amendments and implementation programs to address emergency access and egress, parking and objective development standards to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3. (Attachment 1 to the report). Recommendations to Additional Objective Development Standards in Zones 2 and 3:
-Zone 2 and 3 - limit the base maximum size of newly constructed, detached ADUs to 850 sq. feet. -Zone 2 and 3 – require compliance with front yard, side yard and open space and coverage requirements of the applicable zoning district.
Recommendations to amend the Fire Code: -Prohibit parking on streets where egress and ingress will be adversely impacted by additional vehicles and increased population. -Require sprinklers in new construction, consistent with local Fire Code. - Explore their authority under California Health and Safety Code Sec. 13869.7 to mitigate the adverse impacts of ADU creation in requiring safe and adequate ingress and egress routes and sufficient off-street parking.
Financial Implications: Staff time
Contact: Susan Wengraf, Councilmember, District 6 (510) 981-7160
Action: Approved recommendation revised to add the underlined phrase, “...and objective development standards for ADUs in all districts with expedited consideration to address the constraints presented by high fire hazard conditions and narrow and curving roadways in Fire Zones 2 and 3.”

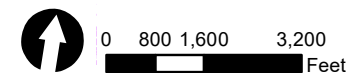
City of Berkeley Hillside Conditions Map



Legend

-  Very High Fire Hazard Severity Zone
 -  CGS Seismic Hazard Zone: Liquefaction
 -  CGS Seismic Hazard Zone: Earthquake Fault
 -  CGS Seismic Hazard Zone: Landslide
 -  ES-R Zoning District
 -  Hillside Overlay
- Pavement Width**
-  Less than or equal to 20 feet
 -  21 to 26 feet
 -  Greater than 27 feet

Updated:
November 14, 2019



 **CITY OF BERKELEY**
Land Use Planning Division
Dep. of Planning & Development
2120 Milvia Street, 2nd Floor
Berkeley, CA 94704



PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

WEDNESDAY, APRIL 7, 2021, 7:00 PM

Amendment to BMC Chapter 23C.24 and Chapter 23F.04 Accessory Dwelling Units and Related Definitions

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.030, on **Wednesday, April 7, 2021, beginning at 7:00 PM. The hearing will be conducted via Zoom** - see the Agenda for details, which can be found online at: <https://www.cityofberkeley.info/PC/>

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available. The link to the meeting will be included on the published agenda, one week prior to the meeting, at: <https://www.cityofberkeley.info/PC/>

PROJECT DESCRIPTION: Amend the Berkeley Municipal Code (BMC) to codify references to Statewide Accessory Dwelling Unit (ADU) regulations; delineating districts where ADUs are allowed; and modifying development standards, permit thresholds, review processes and associated findings. Amendments simplify the structure and language of the ADU Ordinance and update definitions related to ADUs in conformance with State law and local regulations.

Full text of ADU Ordinance Amendments can be found on the Planning Commission's homepage: <https://www.cityofberkeley.info/PC/>

LOCATION: Citywide on parcels with a legal existing or proposed dwelling unit.

ENVIRONMENTAL REVIEW STATUS: The project is statutorily exempt from the California Environmental Quality Act by Guidelines Section 15282(h).

PUBLIC COMMENT

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Comments may be made verbally at the public hearing and in writing before the hearing. Written comments concerning this project should be directed to:

Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704

Fax: (510) 981-7489
E-mail: apearson@cityofberkeley.info

1947 Center Street, Berkeley, CA 94704 Tel: 510.981.7410 TDD: 510.981.7474 Fax: 510.981.7490
E-mail: planning@ci.berkeley.ca.us

ACCESSORY DWELLING UNIT ORDINANCE

NOTICE OF PUBLIC HEARING
Posted March 26, 2021

Correspondence received by **12 noon, nine days** before this public hearing, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public hearing, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public hearing.
- Correspondence received by **5 pm one day** before this public hearing, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public hearing.
- Correspondence received **after 5 pm one day** before this public hearing will be saved as part of the public record.

Note: It will not be possible to submit written comments at the meeting.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

FURTHER INFORMATION

Questions should be directed to **Alene Pearson** via email at apearson@cityofberkeley.info. Past and future agendas are also available on the Internet at: <https://www.cityofberkeley.info/PC/>



Planning and Development Department
Land Use Planning Division

STAFF REPORT

DATE: April 7, 2021
TO: Members of the Planning Commission
FROM: Paola Boylan, Assistant Planner
SUBJECT: Response to Support Small Businesses Referral: Amendments to the Sign Ordinance to Establish a Master Sign Program

RECOMMENDATION

Staff recommends the Planning Commission discuss, hold a public hearing, and provide feedback on the proposed amendments to Berkeley's Sign Ordinance and Zoning Ordinance. Proposed amendments revise the Berkeley Municipal Code (BMC) Title 20 [Signs] to clarify design review procedures and establish an optional Master Sign Program in commercial and manufacturing districts, as well as amend references in Section 23E.08.020 [Design Review: Applicability] for consistency throughout the BMC.

BACKGROUND

City Council has referred to the Planning Commission five referrals that support Berkeley businesses and bolster Berkeley's commercial districts. These referrals range in scope from broad suggestions to targeted requests, but share the common goal of expediting service expansion for existing businesses and reducing barriers to entry for new businesses. This report provides recommendations for one of eight requested actions in the following referral (see Attachment 3):

Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses (City Manager William-Ridley, 10/15/19)

Recommendations address the referral's request to review and clarify the approval process for sign permits. The Office of Economic Development (OED) advanced this item by spearheading research and developing initial recommendations to establish a Master Sign Program. OED and the Planning Department collaborated on draft ordinance language. The Discussion section provides rationale for recommendations, which intend to improve clarity and predictability for new and replacement signs.

On November 19, 2020, the Design Review Committee (DRC) received a presentation on this referral response, provided feedback, and voiced support for the proposed amendments. (See Links 1 and 2). DRC also resolved to draft a memorandum to City Council, requesting the City Manager develop a template and objective standards for new

signs and awnings. Staff recognizes the recommendations in this report are focused on establishing a Master Sign Program and more work remains to be completed on the larger referral. However, it is important to note that in addition to the recommendations presented in this report, objective standards for signs and awnings are included in the Joint Subcommittee for Implementation of State Housing Laws' (JSISHL) recommendation to City Council and will be evaluated through that public process (See Links 3 and 4).

Proposed amendments in this report affect Berkeley Municipal Code (BMC) Title 20 [Signs], which is not technically part of the Zoning Ordinance (Title 23) and BMC Section 23E.08.020 [Design Review: Applicability]. Amendments to Title 20 are before Planning Commission to ensure consistency between Title 20 and Title 23. The Planning Commission is asked to review and discuss proposed amendments to the Zoning Ordinance and can also provide valuable feedback on Title 20.

DISCUSSION

Amendments presented in this report are intended to reduce processing times for obtaining sign permits, clarify the Sign Ordinance, and provide consistency between Title 23 and Title 20. These changes will result in better customer service by improving business applicants' permit processing experience. This section provides an overview of existing conditions, staff's analysis, and presents three recommendations for the Planning Commission to consider and discuss.

1. Minor edits to Title 23 to maintain consistency with Title 20

(Modify Section 23E.08.020 [Applicability] and 20.12.070 [Issuance authorized when])
Title 23 currently requires replacement signs to undergo Design Review. However, proposed amendments to Title 20 define and exempt replacement signs from Design Review (See Attachment 2, Line 21). This requires the following amendment to 23E.08.020 B:

23E.08.020.B: *All projects for which a building or sign permit is required, involving exterior construction or alteration, the removal of public facades or any portion of those facades, or the erection of new signs that are not part of a Master Sign Program ~~or replacement of signs~~, are subject to design review.*

In addition, Section 23E.08.020.C, which clarifies permit processes for signs, references a single Section of Title 20 (BMC 20.12.010). The amendments to Title 20 require a broader reference to the Chapter on Permits (BMC 20.12). Amendments to Section 23E.08.020.C update the chapter reference and clean up language around building permits and sign permits as shown below:

23E.08.020.C: *Permits for projects that are subject to design review may not be issued without design review approval, except that they may be issued conditional upon such approval occurring before the issuance of a building ~~permit~~ ~~or for a permit for a~~ ~~or~~ sign permit as set forth in BMC 20.12.010 (~~the Signs: Permits Ordinance~~).*

To be consistent with the Sign Ordinance, minor amendments to the Zoning Ordinance are proposed. Amendments generalize the reference to Title 20 and remove language from Title 23 to exempt” replacements signs from Design Review (See Attachment 1, Line 10 and 14). Overall, these changes improve the City’s internal permitting processes and customer service by providing more clarity and shortening timelines for individual businesses updating signage.

Rationale: Title 20 and 23 reference one another to help the reader navigate the BMC. Therefore, changes to Title 20 require minor edits to Title 23. The bullets below highlight the different functions of the Zoning Ordinance and the Sign Ordinance.

- Title 23 - Zoning Ordinance (Section 23E.08.020 [Applicability]) - provides guidance on determining which projects are subject to Design Review as part of the sign permitting process; and
- Title 20 - Sign Ordinance (Section 20.12.070 [Issuance authorized when]) - provides guidance on when a sign permit is needed, how it is processed, and when it can be issued.

2. Exempt “in-kind” Sign Replacements from Obtaining a Sign Permit.

(Modify Section 20.12.070 [Issuance authorized when])

Currently, all new and replacement signs must obtain a sign permit and undergo some level of design review. This includes replacement signs that have previously been approved by the City. Amendments define and exempt “in-kind” signs and signs that have been approved through a Master Sign Program:

20.12.070.E: Exempt Signs.

- a. Approved existing signs may be refaced, re-painted or replaced with the same location, size, and design, subject to review by the Building Official.***
- b. Signs pursuant to a Master Sign Program may be installed and replaced without Design Review and shall be approved with a Zoning Certificate, subject to review by the Building Official.***

Rationale: Proposed amendments specify which types of signs are exempt from obtaining a sign permit, and which are subject to Design Review. This includes defining “in-kind” replacement signs -- those being refaced, re-painted, or replaced, but remain in the same location and maintain their original size and design (as determined by staff) and signs installed under a Master Sign Program. Proposed amendments remove onerous re-application requirements and clarify the Sign Ordinance by defining sign types and outlining permits required.

3. Establish a Master Sign Program.

(Modify Chapter 20.16 [Regulations Generally])

See Attachment 2 (Lines 30 to 87) for amendments related to a Master Sign Program and Attachment 4 for a flow chart that explains the process.

Rationale: Master Sign Programs are intended to establish consistent sign design standards for development projects, projects with multiple signs, and projects with multiple tenants. These programs streamline the approval process for new, updated, or replacement signs. Master Sign Programs establish a coordinated design review program to facilitate the approval process for signs when individual tenants turnover. In addition, they provide an opportunity for unique circumstances, when there is cause, for the size and placement of proposed sign templates to differ from standards set by the Sign Ordinance.

Currently, the City of Berkeley does not have a formal Master Sign Program, though multi-tenant sign concepts are often reviewed for larger developments. Establishing a Master Sign Program in the ordinance would encourage interested parties to work with City staff to develop cohesive sign templates for businesses adjacent or in close proximity to each other. Such programs would streamline the permitting process for businesses of all sizes.

Staff reviewed several surrounding jurisdictions' Master Sign Programs to draw on existing practices and develop a program to serve the Berkeley community. Proposed amendments introduce Section 20.16.105 [Master Sign Programs] to provide a pathway for developing pre-approved sign templates that meet City design standards for projects with multiple signs (Attachment 2, Lines 30-87). The new Section provides guidance for business and building owners interested in establishing a Master Sign Program. In addition, the Section outlines protocols and processes to oversee such programs. With this change, a new application fee will be established for processing Master Sign Program applications (See Attachment 4, Flow Chart).

NEXT STEPS

Hold a public hearing, provide feedback, and consider a recommendation to City Council on the Sign Ordinance and Zoning Ordinance amendments provided in this report.

ATTACHMENTS

1. Proposed Amendments to Modify Title 23 [Design Review: Applicability]
2. Proposed Amendments to Modify Title 20 [Signs]
3. Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses -10/15/19
4. Master Sign Program Flow Chart
5. Public Hearing Notice

LINKS

1. Report to DRC 11/19/20: Support Berkeley Businesses – Modifications to the Sign Ordinance
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Design_Review_Committee/2020-11-19_DRC_Berkeley%20Sign%20Ordinance%20Amendments.pdf
2. DRC Minutes 11/19/20
https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_Commissions/Design_Review_Committee/2020-11-19_DRC_Summary.pdf
3. Report to City Council 3/23/21: Objective Standards
https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-23_Item_17_Objective_Standards.aspx
4. Supplemental 3/23/21: Objective Standards
https://www.cityofberkeley.info/Clerk/City_Council/2021/03_Mar/Documents/2021-03-23_Supp_3_Reports_Item_17_Supp_Planning_pdf.aspx

1 **23E.08.020 Applicability**

2 A. The design review process and the design guidelines apply to the following:

3 1. Development within all commercial, manufacturing, mixed use and all other non-residential Districts;

4 2. All commercial and mixed use projects in the R-4 District;

5 3. All commercial, mixed use and community and institutional projects in the R-SMU and R-S Districts;

6 and

7 4. All mixed use and community and institutional projects in the R-3 District within the boundaries of
8 the Southside Plan (see Section [23D.36.050](#) for area description).

9 B. All projects for which a building or sign permit is required, involving exterior construction or alteration, the
10 removal of public facades or any portion of those facades, or the erection of new signs that are not part of a
11 Master Sign Program or replacement of signs, are subject to design review.

12 C. Permits for projects that are subject to design review may not be issued without design review approval,
13 except that they may be issued conditional upon such approval occurring before the issuance of a building
14 permit or for a permit for a or sign permit as set forth in BMC 20.12 20.12.010 (the Sign Ordinance).

15 D. No Zoning Certificate may be approved before approval of design review for such a pending Zoning
16 Certificate application.

17 E. No building or sign permit may be issued, except in conformance with this Chapter. (Ord. 7210-NS § 16,
18 2011: Ord. 6478-NS § 4 (part), 1999)

1 **Section 20.12.070 Issuance authorized when.**

2 A. Upon the filing of an application for a sign permit, the City Manager Applications for
3 proposed signs or alternation/relocation of existing signs are subject to review by the
4 Director of Planning and Development or their his/her designee shall review the
5 application, including and plans and specifications, for the proposed sign or the proposed
6 alteration or relocation for compliance with all requirements of this title.

7 All signs shall The Building Official shall determine if a sign requires a Building Permit or
8 Electrical Permit to meet the requirements of the Berkeley Building Code.

9
10 B. ~~If the City Manager or their designee determines that the proposed sign, alteration or~~
11 ~~relocation is in compliance with all of the requirements of this chapter and any other~~
12 ~~applicable ordinance of the City, they shall forward the application to the Building Official~~
13 ~~for issuance of a building permit and/or an electrical permit.~~

14 C. The Zoning Officer shall determine if a sign requires Design Review. A building permit
15 and/or an electrical permit for a sign subject to design review pursuant to
16 Chapter 23E.08 shall not be issued until ~~D~~design Review approval has been granted and
17 the application permit has been found in ~~in~~ conformance with the approved design. (Ord.
18 7120-NS § 7, 2009; Ord. 6474-NS § 13, 1999; Ord. 6424-NS § 1 (part), 1998)

19 D. A Master Sign Program may, at the applicant's discretion, be reviewed and approved
20 simultaneously with or subsequent to Design Review for a building.

21 E. Exempt Signs.

22 a. Approved existing signs may be refaced, re-painted or replaced with the same
23 location, size, and design, subject to review by the Building Official.

24 b. Signs pursuant to a Master Sign Program may be installed and replaced without
25 Design Review and shall be approved with a Zoning Certificate, subject to review
26 by the Building Official.

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Chapter 20.16

REGULATIONS GENERALLY

Sections:

- 20.16.010 Prohibited signs--Exceptions.
- 20.16.020 Clearance requirements.
- 20.16.030 Measuring sign area and sign height.
- 20.16.040 Obstructing certain areas or facilities prohibited.
- 20.16.050 Awnings--On-premises signs.
- 20.16.060 Bulletin boards.
- 20.16.070 Business complex signs.
- 20.16.080 Ground signs.
- 20.16.080 Exempt signs.
- 20.16.090 Reserved.
- 20.16.100 Master Sign Programs.
- 20.16.105 Marquee signs.
- 20.16.110 Moving signs.
- 20.16.120 Projecting signs.
- 20.16.130 Roof signs.
- 20.16.140 Wall signs.
- 20.16.150 Window signs.
- 20.16.160 Shingle signs.
- 20.16.170 Portable signs permitted on public property--Conditions.
- 20.16.180 Signs required by traffic engineer or as a condition of a permit.
- 20.16.190

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Section 20.16.105 Master Sign Programs.

A. Purpose

- 1. To create a streamlined sign review process for development projects, projects with multiple signs, and projects with multiple tenants.
- 2. To ensure consistent design, quality and display of signs.

B. Applicability

- The following projects are eligible for a Master Sign Program:
- 1. Four or more contiguous non-residential tenant spaces.
 - 2. Four or more permanent non-exempt signs associated with one development project, business or Use Permit.
 - 3. Projects with unique characteristics, including but not limited to site visibility and site location, as determined by the Director of Planning and Development or his/her designee.

C. Approval and Appeal Authority

- 1. A Master Sign Program may be part of preliminary or final Design Review and shall be decided upon by the Design Review Committee or Landmark Preservation Commission. Appeals of Design Review Committee decisions shall be heard by the Zoning Adjustment Board whose decision is final.
- 2. The Building Official shall determine if a sign allowed under a Master Sign Program requires a Building Permit or Electrical Permit to meet the requirements of the Berkeley Building Code.

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D. Regulations

1. A Master Sign Program shall outline regulations including, but not limited to, sign area, number of signs, maximum height, and location.
2. A Master Sign Program may include exceptions to the regulations established in this Chapter when deemed necessary or desirable.

E. Application Requirements

A Master Sign Program shall include all information and materials required by the Planning Department, including the Master Sign Program fee in the Master Fee Schedule.

F. Findings.

In order to approve a Master Sign Program, the following findings shall be made:

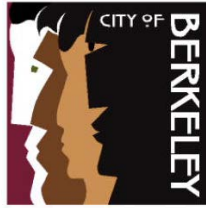
1. The Master Sign Program complies with the purpose of this Chapter;
2. The Master Sign Program ensures proposed signs enhance the overall project;
3. The Master Sign Program ensures proposed signs are in harmony with other signs and structures included in the project;
4. The Master Sign Program ensures proposed signs are in harmony with surrounding development;
5. The Master Sign Program contains provisions to accommodate Change in Use or new tenants; and
6. The Master Sign Program complies with the standards of this Chapter and/or includes specific exceptions as deemed necessary or desirable.

G. Revisions to Master Sign Programs

Revisions to Master Sign Programs shall be considered by the original decision-maker.

H. Binding Effect

1. A Master Sign Program, once adopted, shall be adhered to unless amended.
2. A Master Sign Program shall be enforced in accordance with this Chapter.



Office of the City Manager

ACTION CALENDAR

October 15, 2019

(Continued from September 24, 2019)

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Jordan Klein, Economic Development Manager
Subject: Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses

RECOMMENDATION

Refer to the Planning Commission modifications to the Zoning Ordinance that are designed to streamline the zoning review process for new or expanding small businesses in Berkeley.

SUMMARY

In April 2017, City Council referred to the City Manager analysis of a number of policy and programmatic initiatives to support the City's small businesses, including "streamlining of zoning, permitting and licensing requirements and processes." In February of 2019, six changes to the Zoning Ordinance were enacted. Subsequently, staff from the Office of Economic Development (OED) have identified eight additional potential modifications to the Zoning Ordinance for the Council and Planning Commission to consider. These eight changes are proposed in Berkeley's commercial zoning districts to make the permitting review process for small businesses less complex and time consuming:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate.
2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts.
3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Service Establishment with an Administrative Use Permit (AUP) subject to performance standards.
4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards.
5. Consider modifying the limitation on hours of operations in some commercial districts.
6. Consider the necessity of 'change of use' requirements in commercial districts.
7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts.

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E-mail: manager@CityofBerkeley.info Website: <http://www.CityofBerkeley.info/Manager>

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance.

These proposed revisions reflect input from the small business community and are seen by staff as relatively straightforward opportunities to modernize and improve the Zoning Ordinance to reflect present day conditions and community values. Each of these proposed modifications is designed to make the zoning review process for small businesses easier, clearer, and more streamlined.

FISCAL IMPACTS OF RECOMMENDATION

Modifications to the Zoning Ordinance, and the accompanying public hearings, will require staff time from the Planning Department, Office of Economic Development, and City Attorney's Office to produce staff reports and attend the required Planning Commission and City Council hearings. Proposed modifications are designed to simplify the planning review process for desirable business activities (including new business starts and expansions) and therefore may result in a modest increase in business license tax and sales tax revenues.

CURRENT SITUATION AND ITS EFFECTS

The Zoning Ordinance has evolved over decades to reflect Berkeley's changing values and the changing landscape of property development and land use. Its requirements are intended to guide the City's growth while preserving its existing character. However, businesses and people operate differently than they did 20 to 50 years ago, and some of the current permit thresholds and ordinance requirements do not recognize these changes. This results in a permitting process that can be unnecessarily lengthy and cumbersome, especially for independently-owned small businesses without the sophistication to navigate our complicated code and permitting process. Since its last major overhaul in 1999, the Zoning Ordinance has been updated in large and small ways at least 16 times to reflect new approaches to land use and changes in the ways businesses function and residents view their community. Staff has observed that it is particularly difficult for smaller, independently-owned businesses to navigate the permit review process and the associated timelines and expense. The modifications proposed here are designed with the unique needs and challenges of small businesses in mind. Further, these recommendations follow up on the recently adopted (January 2019) zoning modifications to support small business that have improved the experiences in several cases over a period of five months.

In order to update our ordinance to better accommodate today's locally-owned, small, independent enterprises that are highly desirable to our community, and to adhere to best practices in planning and sustainable economic development, staff recommends the eight modifications to the Zoning Ordinance listed above to provide regulatory relief for small businesses in their establishment or expansion phases. These changes are an important component and continuation of a broader effort to improve our organization's embrace of our customer service and Strategic Plan goals to "foster a dynamic, sustainable, and locally-based economy" and "provide excellent, timely, easily-

accessible service and information to the community,”¹ while honoring the City’s commitment to public participation and ensuring that new uses are compatible with neighboring land uses.

BACKGROUND

On April 25, 2017, the City Council referred to the City Manager a bundle of recommendations entitled the “Small Business Support Package” with the objective to “to support the establishment of new, and sustainability of existing small and/or locally owned businesses.” Among the strategies that Council asked staff to analyze and implement included “streamlining of zoning, permitting and licensing requirements and processes for small/local businesses and not-for-profits, to reduce associated costs and delays, and, where appropriate, provide less onerous levels of review.”² In the Council’s annual referral prioritization exercise conducted in May 2017, the item was ranked as the Council’s top priority among the referrals not pertaining to housing.

Subsequently, during summer and fall of 2017, Office of Economic Development (OED) staff conducted significant outreach and research on Berkeley’s small businesses and compiled its findings in a work session report and presentation to council on January 16, 2018.³ Small business owners and advocates identified the lengthy permitting review process as one of the primary barriers to small business startup and expansion in Berkeley. As a result, staff recommended six modifications to the Zoning Ordinance that were adopted by the City Council on January 22, 2019.⁴ Over six months since the zoning modifications went into effect, several business have benefited from the amendments by reducing months of permit review time and additional expenses. For example, Thai Corner at 1277 Gilman Street, the Sundhari Spa at 1605 Solano Avenue, and AxeVentures at 2566 Telegraph Avenue each were able to open their business or expand their hours via a Zoning Certificate, rather than wait several months for an AUP. In addition, the zoning modifications were acknowledged by the Northern California Chapter of the American Planning Association (NorCal APA) with an Award of Merit in Economic Planning and Development.

The goal of this second round of zoning changes is again to improve and simplify the permitting experience for small businesses, which can in turn enhance the quality of commercial district offerings, help fill vacant storefronts, and generate more local and sustainable economic opportunities. The recommendations distill specific complaints, concerns, challenges, and staff observations into concise changes to the zoning ordinance designed specifically to alleviate long permit queues, clear up applicant confusion, and streamline the experience of doing business in Berkeley. The

¹ See *City of Berkeley 2018-2019 Strategic Plan*, adopted by Berkeley City Council, January 16, 2018.

² See *Small Business Support Package*, adopted by Berkeley City Council, Item 41, April 25, 2017.

³ See *Economic Development Worksession, Small Business Support*.

https://www.cityofberkeley.info/Clerk/City_Council/2018/01_Jan/Documents/2017-01-16_WS_Item_01_Economic_Development_Worksession.aspx

⁴ See *Referral Response: Modifications to the Zoning Ordinance to Support Small Businesses*, adopted by City Council, Item 1, January 22, 2019

https://www.cityofberkeley.info/Clerk/City_Council/2019/01_Jan/Documents/2019-01-22_Item_01_Ordinance_7635.aspx

recommendations are also informed by outreach, conducted February through August 2019, to neighborhood stakeholders, business owners, elected officials and commissioners. Staff aimed to identify and streamline the particular controls that lengthen the review process for desired and noncontroversial uses. In addition, the recommendations are consistent with purpose statements for commercial districts in section 23E of the Zoning Ordinance.

The following recommendations and rationale continue to iterate on the progress and inputs gathered from the first round of zoning amendments to support small businesses:

1. Consider permitting Group Instruction (Dance Studios, Yoga Studios, Martial Arts, Exercise) with a Zoning Certificate. Currently the Zoning Ordinance requires an AUP for Group Class Instruction in the majority of commercial zoning districts. A new yoga studio or exercise studio, or businesses interested in adding classes to an existing business, such as an art gallery or culinary business, are subject to discretionary review through an AUP application. The AUP requirement typically lengthens the zoning review process by three to six months, and typically increases the cost by roughly \$1,000 to \$4,000.

OED staff has observed an increase in business models that employ a combination of retail and/or food consumption with instruction, training and class offerings. As the prevalence of online purchases for soft goods (e.g., clothing, books, music) increases, these creative commercial uses are increasingly critical to the vitality and sustainability of neighborhood commercial districts. Therefore staff recommends amending the Zoning Ordinance to permit these uses in commercial districts with a Zoning Certificate.

2. Clarify the threshold for design review and the applicability of design guidelines for sign applications in commercial districts. Section 20.12.070 of the Zoning Ordinance and Section 23E.08.020 of the Sign Code have conflicting and contradictory language related to the threshold for the design review of a new sign and the requirements for a Sign Permit. In addition, the current application for Signs and Awnings throughout the City refer to the Downtown Sign Guidelines; those guidelines have been used for the review and processing of signs beyond Downtown. This has led to confusion for applicants, business owners and sign companies wishing to do business in Berkeley. The impact is especially detrimental to small, independent business owners interested in opening a new business with a new sign.

To remedy this, staff recommends a minor modification to the language in Section 23E.08.020 Applicability of Design Review in non-residential districts to clarify the types of signs that are subject to design review and signs that are exempt. In addition, the Planning Commission should determine whether the Downtown Sign Guidelines are suitable for the evaluation of signs throughout the City or only Downtown.

3. Consider permitting the sale of Distilled Spirits that are incidental to a Food Establishment with an Administrative Use Permit (AUP) subject to performance standards. Presently an operator of a food service establishment must obtain a Use Permit with a Public Hearing UP(PH) to serve distilled spirits. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol. The UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for food service purveyors.

Staff recommends the incidental service of distilled spirits at a food establishment be permitted via an AUP, subject to specific conditions of approval and the adopted performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. Nearby residents and property owners will still be notified of the proposed use and will have the ability to provide comments and appeal the Planning Department's decision.

4. Consider permitting standalone Beer and Wine Sales (such as Tap Rooms and Wine Bars) with a Zoning Certificate subject to performance standards. Currently, tap rooms, wine bars and tasting rooms are subject to the UP(PH) process in most commercial districts. As noted above, the UP(PH) requirement typically lasts between five to eleven months, and includes \$5,215 in fees. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business. This review process is separate from and in addition to the review process an owner or operator is subject to by Alcohol Beverage Control (ABC), the state agency regulating the sale, service, and production of alcohol.

Staff recommends that standalone beer and wine sales be permitted via a Zoning Certificate, subject to the performance standards which are approved by Berkeley's law enforcement officials and in line with the best practices employed by the state ABC. The City of Berkeley has an emerging wine and beer scene, resulting in additional tourism, tax revenue, manufacturing and job creation; this policy change could help to encourage its continued expansion.

5. Consider modifying the limitation on hours of operations in some commercial districts. Currently, several commercial zoning districts limit the hours of operation for businesses; e.g., businesses in the Elmwood District may not operate outside of 7am-11pm. In order for a business to exceed the existing limits, they must apply for a UP(PH) (adding approximately five to eleven months and \$5,215 in fees to the zoning approval process). This is a significant obstacle for many business owners and has served as a deterrent for entrepreneurs that may be interested in providing food and drinks to customers after 11:00 pm. Many of the City's entertainment activities end at or after 11:00 pm; in some

districts, the limits on hours of operations restricts businesses from offering complementary services. This could result in lost tax revenue, job opportunities and lost business to adjacent cities. Staff recommends that the Planning Commission consider removing the blanket restriction in some or all commercial districts, allowing business owners to maintain hours of operation that comply with any applicable State laws and are aligned with their business model and customer demand.

6. Consider the necessity for 'change of use' requirements in commercial districts triggered by square footage. Currently in some C-prefixed districts, a change of use above a certain square footage threshold necessitates an AUP or a UP(PH). A commercial change of use requirement based on square footage is atypical; surrounding jurisdictions do not impose this level of scrutiny on neighborhood serving business, which puts Berkeley at a competitive disadvantage in its attraction of new businesses to larger commercial spaces. Each district's Use Table makes allowances for different levels of discretionary review for particular uses based on square footage thresholds. This additional requirement therefore adds to the overall complexity of the zoning ordinance; as it is a supplemental requirement implemented via an asterisk, often it is initially overlooked by applicants.

Staff recommends that the Planning Commission review the appropriateness and benefits of an AUP for a Change of Use and consider eliminating the requirement in some or all commercial districts. Proposed uses would be evaluated and reviewed based on the levels of discretion defined in the Use Table for each district.

7. Consider the appropriate levels of discretion for Arcades and Automatic Teller Machines (ATMs) commercial districts. Commercial recreation uses that are classified as Arcades (e.g., Emporium and 90's Experience, Oakland, CA and the High Scores Arcade Museum, Alameda, CA) have become increasingly popular and prevalent. With the rise of internet sales posing challenges to retailers, these types of experiential commercial establishments have become increasingly important to the overall health of commercial districts. However, Berkeley's existing zoning controls make it difficult or impossible to open that type of establishment in most districts. Currently, Arcades are either prohibited or require a UP(PH), which adds approximately five to eleven months and \$5,215 in fees to the zoning approval process. The requirement also generates additional demands on Planning staff and the Zoning Adjustments Board, and uncertainty for entrepreneurs interested in this type of business.

ATMs also typically require an AUP or UP(PH), and in some districts are prohibited unless part of a Financial Institution. ATMs are often a beneficial and complimentary element for active commercial districts, especially if there's a lack of financial institutions in the area like some parts of Berkeley. Furthermore, the City of Berkeley is considering a policy that would require businesses to accept

cash. Staff recommends that the Planning Commission review the levels of discretion for Arcades and ATM's in commercial districts.

8. Update the Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades to reflect the proposed changes to the Zoning Ordinance. The Special Use Standards in Section 23E.16.040 for Alcoholic Beverage Sales and 23E.16.050 Amusement Arcades provide additional requirements and limitations for certain uses in the Zoning Ordinance. Several of the regulations are limiting and don't reflect the current standards in other jurisdictions. In addition, these sections would need to be modified to be consistent with the recommended Zoning Ordinance amendments above. Furthermore, the Public Convenience or Necessity findings for alcohol use and the distance buffers for Arcades are overly restrictive, don't reflect best practices and conflict with typical business practices. For example, Section 23E.16.040(A)(1)(b)(5) states "no beer or wine may be distributed in its original bottle or can." Staff recommends that the Planning Commission consider updating the Special Use section of the ordinance to be reasonable, enforceable and be consistent with surrounding jurisdictions.

Next Steps

Staff recommends that City Council review and adopt this referral to Planning Commission. Subsequently, Planning Department staff would present the Planning Commission with information, case studies and analysis relevant to each proposed change, seek guidance from the Commission, and draft Zoning Ordinance amendments for the Commission's review. It is possible that some of the recommendations may be implemented as part of the Zoning Ordinance Revision Project (ZORP), a current initiative to modernize and streamline the Zoning Ordinance. Planning Commission hearings will provide opportunities for additional feedback from small business owners, citizens, neighborhood associations, and commercial district groups.

Strategic Plan Connection

This referral is a component of a Strategic Plan Priority Project (Small Business Support), advancing our goals to provide an efficient and financially-health City government; to foster a dynamic, sustainable, and locally-based economy; and to be a customer-focused organization that provides excellent, timely, easily-accessible service and information to the community.

ENVIRONMENTAL SUSTAINABILITY

Many of the City's environmental sustainability goals are inextricably tied to the overall health of the City's economy. Small businesses make up the bulk of Berkeley's economy. Small businesses often contribute to sustainable transportation and consumer behavior by providing opportunities to shop in neighborhood commercial districts that are accessible by foot, bicycle and transit.

RATIONALE FOR RECOMMENDATION

Berkeley's commercial districts, and the small businesses that comprise them, are vital to the City's economic, social and civic wellbeing. These zoning changes represent the

Additional Modifications to the Zoning Ordinance to Support Small Businesses

ACTION CALENDAR
October 15, 2019

most immediate and straightforward approach the City can take to assist small businesses and potentially reduce commercial vacancies. They are designed specifically to support small independent operators seeking to invest and activate these districts, and will provide the community with needed goods and services. These changes also have the added addition of improving our city's internal permitting processes, by shortening timelines and improving customer service.

ALTERNATIVE ACTIONS CONSIDERED

Staff considered various other changes to levels of discretionary review and other zoning compliance review for commercial uses, but recommends moving forward with the modifications proposed above while continuing to gather input on additional changes.

CONTACT PERSON

Jordan Klein, Economic Development Manager, (510) 981-7534

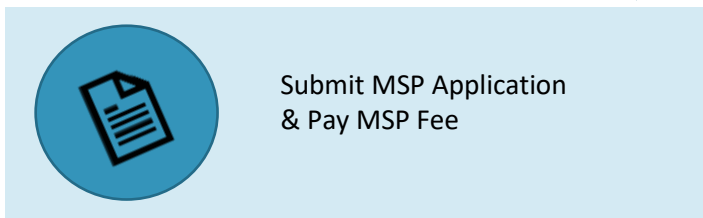
Kieron Slaughter, Community Development Project Coordinator, (510) 981-2490

Master Sign Program (MSP) Process Flow Chart

Examples of Eligible Projects



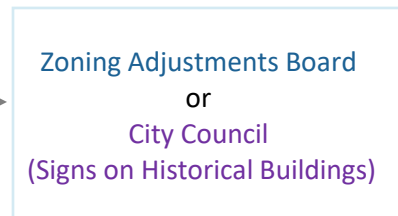
Initiate MSP Process



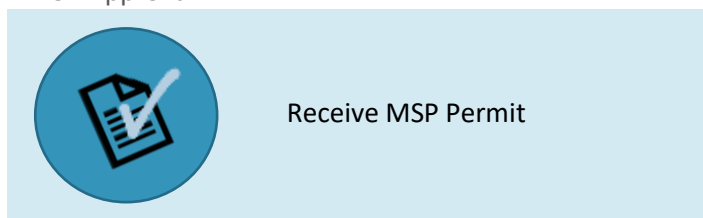
Review of Proposed MSP



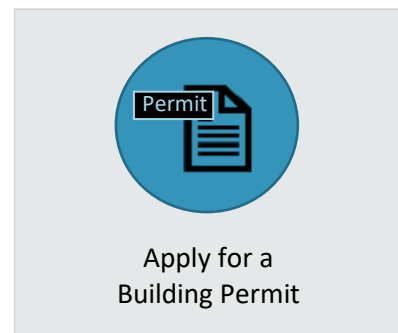
Appeals



MSP Approval



Approvals



New Sign on buildings with a MSP





PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

WEDNESDAY, APRIL 7, 2021, 7:00 PM

Amendments to BMC Chapter 20.12 and Chapter 23E.08 Updating the Sign Ordinance and Corresponding References in the Zoning Ordinance

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.30, on **Wednesday, April 7, 2021, beginning at 7:00 PM. The hearing will be conducted via Zoom** - see the Agenda for details, which can be found online at: <https://www.cityofberkeley.info/PC/>

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available. The link to the meeting will be included on the published agenda, one week prior to the meeting, at: <https://www.cityofberkeley.info/PC/>

PROJECT DESCRIPTION: Amend the Sign Ordinance of the Berkeley Municipal Code (BMC) to improve clarity, provide further guidance for new and replacements signs, add provisions for a Master Sign Program, and update corresponding references in the Zoning Ordinance. Amendments clarify and streamline the permitting process.

Full text of the draft Zoning Ordinance amendments can be found on the Planning Commission's homepage: <https://www.cityofberkeley.info/PC/>

LOCATION: Citywide

ENVIRONMENTAL REVIEW STATUS: The project is categorically exempt from the California Environmental Quality Act (CEQA) by Guidelines Section 15061(b)(3), because it can be seen with certainty that the proposed amendments would not have significant effects on the environment. Amendments provide clarity but maintain guidance to direct the public to regulations that protect the environment and local health, safety and welfare.

PUBLIC COMMENT

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Commission. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Commission may limit the time granted to each speaker.

Comments may be made verbally at the public hearing and in writing before the hearing. Written comments concerning this project should be directed to:

AMENDMENTS TO SIGN ORDINANCE

NOTICE OF PUBLIC HEARING
Posted: March 26, 2021

Planning Commission
Alene Pearson, Secretary
Land Use Planning Division
1947 Center Street
Berkeley, CA 94704

Fax: (510) 981-7489
E-mail: apearson@cityofberkeley.info

Correspondence received by **12 noon, nine days** before this public hearing, will be included as a Communication in the agenda packet. Correspondence received after this deadline will be conveyed to the Commission and the public in the following manner:

- Correspondence received by **12 noon two days** before this public hearing, will be included in a Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to Commissioners one day before the public hearing.
- Correspondence received by **5 pm one day** before this public hearing, will be included in a second Supplemental Packet, which will be posted to the online agenda as a Late Communication and emailed to the Commissioners by 5pm on the day of the public hearing.
- Correspondence received **after 5 pm one day** before this public hearing will be saved as part of the public record.

Note: It will not be possible to submit written comments at the meeting.

COMMUNICATION ACCESS

To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice), or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability.

FURTHER INFORMATION

Questions should be directed to **Paola Boylan**, at pboylan@cityofberkeley.info.
Past and future agendas are also available on the Internet at: <https://www.cityofberkeley.info/PC/>

ANNOTATED AGENDA
BERKELEY CITY COUNCIL MEETING
Tuesday, March 23, 2021
6:00 PM

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
DISTRICT 8 – LORI DROSTE

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

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

Live audio is available on KPFB Radio 89.3. Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at <http://www.cityofberkeley.info/CalendarEventWebcastMain.aspx>.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL <https://us02web.zoom.us/j/82597941909>. 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 by rolling over the bottom of the screen.

*To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and enter Meeting ID: **825 9794 1909**. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.*

To submit an e-mail comment during the meeting to be read aloud during public comment, email clerk@cityofberkeley.info with the Subject Line in this format: "PUBLIC COMMENT ITEM ##." Please observe a 150 word limit. Time limits on public comments will apply. Written comments will be entered into the public record.

Please be mindful that the teleconference will be recorded as any Council meeting is recorded, and all other rules of procedure and decorum will apply for Council meetings conducted by teleconference or videoconference.

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900. The City Council may take action related to any subject listed on the Agenda. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Action Calendar

17. **Objective Standards Recommendations for Density, Design and Shadows**
From: Joint Subcommittee for the Implementation of State Housing Laws
Recommendation: Refer to the Planning Commission and Design Review Committee to review the recommendations from the Joint Subcommittee for the Implementation of State Housing Laws (JSISHL) for objective standards for density, design and shadows and draft Zoning Ordinance amendments for City Council consideration.
Financial Implications: See report
Contact: Alene Pearson, Commission Secretary, (510) 981-7400
Action: Moved to Consent Calendar. Referred Item 17, including the supplemental material submitted at the meeting from the Planning Department, to the Agenda & Rules Committee for future scheduling.
18. **Partnership for the Bay's Future and Current Anti-Displacement Initiatives**
(Continued from February 23, 2021)
From: City Manager
Contact: Lisa Warhuus, Health, Housing, and Community Services, (510) 981-5400
Action: 2 speakers. Discussion held.

Information Reports

19. **Children, Youth and Recreation Commission FY2021 Work Plan**
From: Children, Youth, and Recreation Commission
Contact: Stephanie Chu, Commission Secretary, (510) 981-6700
Action: Received and filed.

Public Comment – Items Not Listed on the Agenda - 3 speakers.

Adjournment

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

Vote: Ayes – Kesarwani, Taplin, Harrison, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – None; Absent – Bartlett, Droste.

Councilmember Bartlett absent 7:58 p.m. – 8:02 p.m.

Councilmember Droste absent 7:58 p.m. – 8:02 p.m.

Adjourned at 8:02 p.m.

Communications

Zoning Revisions

1. 18 similarly worded form letters
2. Evan Green

ANNOTATED AGENDA SPECIAL MEETING OF THE BERKELEY CITY COUNCIL

In accordance with the authority in me vested, I do hereby call the Berkeley City Council in special session as follows:

**Thursday, March 25, 2021
6:00 PM**

JESSE ARREGUIN, MAYOR

Councilmembers:

DISTRICT 1 – RASHI KESARWANI
DISTRICT 2 – TERRY TAPLIN
DISTRICT 3 – BEN BARTLETT
DISTRICT 4 – KATE HARRISON

DISTRICT 5 – SOPHIE HAHN
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – RIGEL ROBINSON
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Preliminary Matters

Roll Call: 6:05 p.m.

Present: Kesarwani, Taplin, Hahn, Wengraf, Robinson, Droste, Arreguin

Absent: Bartlett, Harrison

Councilmember Bartlett present at 6:06 p.m.

Action Calendar – New Business

Action: M/S/C (Arreguin/Robinson) to accept revised materials from Mayor Arreguin on Item 1.

Vote: Ayes - Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

Recess 8:07 p.m. – 8:17 p.m.

Action: M/S/C (Arreguin/Droste) to suspend the rules and extend the meeting to 11:30 p.m..

Vote: Ayes - Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

1. **Initiation of Public Process and Zoning Concepts for 2023-2031 Housing Element Update**

From: Councilmember Droste (Author), Mayor Arreguin (Author), Councilmember Kesarwani (Author), Councilmember Taplin (Author)

Recommendation: Refer to the City Manager and Planning Commission to initiate an inclusive 18 month public process to develop the state-mandated update to the Housing Element of the Berkeley's General Plan and forward the following key principles and zoning concepts for consideration to achieve equitable and sustainable housing and compliance with new Regional Housing Needs Allocation (RHNA) requirements.

Financial Implications: See report

Contact: Lori Droste, Councilmember, District 8, (510) 981-7180

2. **Initiation of Participatory Planning for Berkeley's Regional Housing Needs Allocation (RHNA)**

From: Councilmember Hahn (Author), Councilmember Harrison (Author), Councilmember Bartlett (Co-Sponsor)

Recommendation:

1. Direct the City manager to initiate and take all steps necessary to launch and complete the City's housing element update in compliance with all State and City of Berkeley laws, plans, guidelines and regulations, to meet the January 2023 RHNA deadline for submission to the California Department of Housing and Community Development (HCD).

2. Refer to the City Manager to hire experienced, culturally competent consultants to

Action Calendar – New Business

lead the housing element update and any required California Environmental Quality Act (CEQA) processes in collaboration with members of the public, the Planning, Housing Advisory, Homeless and other appropriate Commissions, the City Council, and City staff.

3. Refer to the Budget process the identification and allocation of at least \$500,000 in funds necessary to complete the housing element update in a thoughtful, comprehensive, participatory, culturally competent and timely manner.

4. Refer to the City Manager to study and report back to the City Council the following: a. A map of State legislation, with a focus on new legislation adopted since the City's last housing element update, to clarify the State regulatory landscape in which Berkeley's current RHNA planning will take place. Legislation mapped should include but not be limited to new laws about ADUs, SB35, and related to planning in high risk fire/earthquake/sea level rise areas. b. An evaluation of the distribution of RHNA-required units at each affordability level, taking into account Berkeley's current housing pipeline report, the amount of housing in the pipeline at various affordability levels, and City demographics related to income. c. Status of State-level efforts to count group living accommodation (GLA) units/beds towards RHNA requirements.

5. Finalize objective planning standards and updated affordable housing requirements, as previously referred by the City Council, simultaneously with the RHNA planning process.

6. Refer to the City Manager to ensure that the framing of the housing element update reflects core Berkeley values of equity, affordability, and protection of residents from displacement and predatory purchasing, and puts cooperative, land-trust and other social housing concepts, as well as innovative home ownership models, on an equal footing with more traditional market-rate and affordable housing solutions.

Financial Implications: See report

Contact: Sophie Hahn, Councilmember, District 5, (510) 981-7150

Action: 125 speakers. M/S/C (Arreguin/Droste) to adopt Item 1 as revised in the version submitted by the Mayor at the meeting with further amendments in the Equitable Neighborhood Section; and to adopt Item 2 as revised in Supplemental Communications Packet #2.

Vote: Ayes - Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Droste, Arreguin; Noes – None; Abstain – None; Absent – Harrison.

Adjournment

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

Vote: Ayes - Kesarwani, Taplin, Bartlett, Hahn, Wengraf, Robinson, Arreguin; Noes – None; Abstain – Droste; Absent – Harrison.

Adjourned at 11:06 p.m.



CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE

March 26, 2021

Received

**COMMENT PERIOD EXTENSION
NOTICE OF MODIFICATIONS TO TEXT OF
PROPOSED REGULATIONS**

MAR 30 2021
Land Use Planning

Subject Matter of Regulations: Cannabis Appellations Program

The California Department of Food and Agriculture (CDFA) released modified proposed regulations for the appellations of origin for cannabis on March 5, 2021, which marked the start of a public comment period. CDFA is extending the public comment period from March 26, 2021 to April 12, 2021.

The Department will accept written comments on the proposed changes between March 5, 2021 and April 12, 2021. All comments must be submitted to the Department no later than 11:59 pm on Monday, April 12, 2021. Comments may be submitted by mail or by email to:

**Kristi Armstrong, Regulations Coordinator
California Department of Food and Agriculture
CalCannabis Cultivation Licensing Division
P.O. Box 942871
Sacramento, CA 94271
CDFA.CalCannabis.Appellations@cdfa.ca.gov**

All comments received by April 12, 2021 and pertaining to the indicated changes will be reviewed and responded to by the Department's staff as part of the compilation of the final rulemaking file. Please limit your comments to the modifications.

The modified proposed regulations and additional information are posted on the **Cannabis Appellations Program** web page at cdfa.ca.gov/calcannabis/appellations.html.

17 March 2021

TO: Rene Pearson
Planning Commission
2180 Milvia Street
Flr 5
Berkeley, CA 94704
(510) 981-7489

Received
APR 31 2021
Land Use Planning

From: Mary Parks Miller
make a friend
A Corporation
15215 Shattuck Avenue
Unit 9545
Berkeley

Subject: Berkeley Marina Pier Project

Hi Ms. Pearson,
Enclosed you will find a copy of the letter
forwarded to Mayor Arreguin. Please read and
respond, if you like.

I am very interested in setting up a Kosher
supermarket (from A-Z), on the marina. I
think the spot would be ideal, produce wise
and cultural wise. What do you think?
Please reply, if you agree or disagree.

Could you assist me in signing up for the Community
Workshop in June 2021? Currently, I have been
in and out of the hospital and health facility
since 23 May 2020. I am hopeful I
will be discharged very soon. I would
or should be able to attend in June 2021.

Thank you,
Mary Parks Miller
owner/President

17 March 2021

TO: Mayor Jesse Arreguin
2180 Milvia Street
Ste 5
Berkeley, CA 94704
(510) 981-7100

From: Mary Parks Muir
make-a-Friend
A Corporation
1521 Shattuck Avenue
Am B 95

SUBJECT: Berkeley Marina Pier Project

Hi, Mr. Mayor,

I have called several times but I know you have a 'busy job'. I am interested in the Berkeley Marina Pier Project. I'd like to set-up a 'your Supermarket' Centre beginning the end of 2021 or beginning 2022. The location is ideal. How does it fit into your marina plans?

I would like to sign up for the Community Workshops in June 2021. How do I proceed? Please contact me, ASAP. Let's discuss finances, also!?

Until then,
Mary Parks Muir

cc: Vice Mayor
Planning Commission
Oakland Koster Food, Inc.