



Rashi Kesarwani
Councilmember District 1

REVISED AGENDA MATERIAL for Supplemental Packet 2

Meeting Date: October 26, 2021

Item Number: 32

Item Description: **Response to Short Term Referral for Amendments to Accessory Dwelling Unit (ADU) Ordinance to Address Public Safety Concerns: Amending BMC Chapters 23C.24 and 23F.04**

Submitted by: **Rashi Kesarwani, Ben Bartlett, Rigel Robinson, and Terry Taplin**

This revised Supplemental 2 material presents two minor corrections to the recommendations previously proposed by CMs Kesarwani, Bartlett, Robinson, and Taplin in Supplemental 1 material. The policy rationale for the proposed amendments has also been rewritten to provide additional explanation and context for the six proposed recommendations, listed below.

1. Outside the Hillside District, allow maximum ADU height by-right to 20 feet.
2. Outside the Hillside District, allow conversion of a garage (or other accessory structure) to an ADU to expand up to the maximum allowed ADU size.
3. Citywide, modify the proposed definition of “detached ADUs” to exclude the criteria that a detached ADU is at least 3 feet from the main dwelling.
4. Outside the Hillside District, modify the proposed 23C.24.040 (Development Standards) section F by removing bay windows from the list of architectural features (such as water heater enclosures) that may protrude into the required setback. As proposed by Staff/Planning Commission, Section 23C.24.040.F does not apply in the Hillside District.
5. Citywide, remove the proposed 23C.24.050 (Special Provisions) subsection A, which allows for rooftop decks by right.
6. Citywide, specify that objective design standards are not required for ADUs of any size.



Rashi Kesarwani
Councilmember District 1

ACTION CALENDAR
October 26, 2021

To: Mayor and Council
From: Councilmember Rashi Kesarwani (Author) and Councilmembers Ben Bartlett, Terry Taplin, and Rigel Robinson (Co-Sponsors)
Subject: Accessory Dwelling Unit (ADU) Amendments to Enhance Equity and Mitigate Fire Risk in Hills

RECOMMENDATION

Recommend adoption of the proposed ADU Ordinance that requires development standards for creation of ADUs that are consistent with state Government Code Section 65852.2, with the following amendments:

1. Outside the Hillside Overlay District (Referred to as Hillside District, BMC 23E.96), increase the allowed maximum ADU height by-right to 20 feet to enable the same construction costs and by-right building opportunities for residents in West Berkeley, where the groundwater table is high and would therefore cause the cost of construction to be higher if the by-right height limit is only 18 feet.
2. Outside the Hillside District, allow conversion of a garage (or other accessory structure) to an ADU to expand up to the maximum allowed ADU size, as long as the new square footage is outside the required setback.
3. Citywide, modify the proposed definition of “detached ADUs” to exclude the criteria that a detached ADU is at least 3 feet from the main dwelling. This change allows Berkeley’s ADU definition to be consistent with state ADU law and other California local governments. ~~Outside the Hillside District, eliminate the proposed 3-foot separation required between a main dwelling unit and a detached ADU so that small parcels have an equal opportunity to create a well-designed ADU that uses less open yard space and pervious surface.~~
4. Within the Hillside District, delete provision 23C.24.040 (Development Standards) section F to keep the 4-foot setback clear of any protrusions. Outside the Hillside District, modify the proposed 23C.24.040 (Development Standards) section F by removing bay windows from the list of architectural features (such as water heater enclosures) that may protrude into the required setback. This change will give homeowners in the flats the flexibility to place necessary equipment in the

setback (thereby saving additional open yard space), but would remove the ability for a bay window to protrude into the setback in order to mitigate possible privacy concerns of neighbors. [As proposed by Staff/Planning Commission, Section 23C.24.040.F does not apply in the Hillside District.](#)

5. Citywide, remove the proposed 23C.24.050 (Special Provisions) subsection A, which allows for rooftop decks by right, but continue to allow them with an Administrative Use Permit as required for all other rooftop decks.
6. Citywide, specify that objective design standards are not required for ADUs of any size, as this would be a new standard to which single-family homes are not subject. Objective design standards are already banned for certain by-right ADUs pursuant to state law; applying these standards to larger ADUs could preclude the use of pre-fabricated units and would be overly burdensome for structures that are typically in backyards and not visible from the street.

Further, refer to the Nov. 4 City Council Legislative Platform Meeting, a discussion of appropriate changes to state ADU law that the City Council may wish to incorporate into its 2022 State Legislative Platform in order to seek further legally permissible fire safety measures in the Hillside District.

CURRENT SITUATION AND ITS EFFECTS

City of Berkeley Has Already Faced Legal Challenge Related to ADU Restrictions in the Hillside Overlay District¹. During 2019, the City of Berkeley required an Administrative Use Permit for ADUs built in the Hillside District on roadways with less than 26 feet width. In late 2019, in response to new state ADU law, the City adopted an urgency ordinance that continued to ban any new dwelling units in Fire District 3 (Panoramic Hill) and banned ADUs on roads less than 26 feet wide in Fire District 2 ([i.e., the Hillside District](#)) (See 12-10-2019 City Council Meeting, Item 30: Urgency Ordinance). Hans [Stahlschmidt](#) and Patricia [Stahlchmidt Hart](#), homeowners in the Berkeley Hills, sued the City for procedural obstacles to building an ADU. As a result, the City learned [from HCD](#) that its urgency ordinance violated state ADU law, Government Code 65852.2(e) (see Case No. RG20069713) because it wrongfully prohibited ADUs from certain areas in the Hillside District. [See Government Code Section 65852.2\(e\)\(1\), which specifies that local governments may not use other parts of the ADU law—subdivisions \(a\) to \(d\)—to designate areas where ADUs may not be built.](#)

The City of Berkeley settled out of court, allowed the ADU construction to proceed, and paid the petitioners' legal fees (see 3-9-2021 City Council Item 2). Subsequently, the City repealed its urgency ordinance. Since then, the City has approved ADU permits

¹ Area defined as such by the official City of Berkeley Zoning Map, regulated by BMC 23E.96.

under the state law provisions, as Berkeley has not yet adopted a local ordinance that complies with Government Code Section 65852.2.

State Law Allows By-Right ADUs on All Single-Family Properties Beginning January 1, 2020. State Government Code Section 65852.2(e)(1)(A) provides two options for creating one ADU “by right” per single-family parcel:

(1) A detached or attached “by-right” ADU on single-family properties, with cities applying only three development standards: at least 800 square feet large; at least 16 feet tall; and no more than 4 feet required side and rear yard setbacks.

(2) ~~Allows homeowners to~~ To convert a garage (or other accessory building) into an ADU by-right, keeping the original footprint and dimensions (or rebuilding at the same location with similar dimensions). Local governments may not further restrict these ADUs as long as they meet the state and local Building Codes. The state Housing and Community Development (HCD) Department refers to these as “statewide exempt ADUs” and notes that “ADUs created under Government Code Section 65852.2(e) shall not be subject to design and development standards except for those that are noted in the subdivision.”²

Prior ADU Restrictions for the Hillside District are No Longer Legally Permissible.

Over the years, different restrictions on ADUs in the Hillside District have been adopted, proposed, or discussed. As of January 2020, these restrictions (identified below) are no longer ~~consistent with legal pursuant to~~ Government Code Section 65852.2(e).

- **Restrictions on Where an ADU Can Be Built Based on Street Width.** Under Government Code Section 65852.2(e), local governments may no longer prohibit ADUs based on street widths. Local governments must allow “statewide exempt” ADUs on all single-family properties.
- **Requiring Off-Street Parking.** For years many local jurisdictions required creation of one off-street parking place to create an ADU, both inside and outside of hillside areas. Government Code Section 65852.2(d) now exempts all parcels that are within a half-mile of transit from any required off-street parking. All of the City of Berkeley meets that standard, so off-street parking may not be required anywhere in Berkeley.

² See pages 14-15, California Department of Housing and Community Development, *Accessory Dwelling Unit Handbook*, Dec. 2020, https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf for further explanations on these rights.

- **Requiring “Replacement Parking.”** In the past, local jurisdictions frequently required the replacement (on-site) of any off-street parking space removed due to the creation of an ADU. Government Code Section 65852.2(a) and (e) now exempt all ADUs from that requirement for enclosed or covered parking spaces.

Policy Rationale for Proposed Amendments to ADU Development Standards

Our objective is to limit ADUs in the Hillside District to the minimum required by state law. Outside the Hillside District (in the flats), we propose to adopt amendments that make it easier and cheaper to build ADUs in order to increase equity among all flats homeowners while protecting the environment.

Exhibit 1: Summary of Proposed Development Standards

Standard	RECOMMEND Hillside District Proposal (Staff/Planning Commission)	Outside Hillside District Flats Proposal (Staff/Planning Commission)	RECOMMEND Outside Hillside District Flats Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson)
Maximum Height	16 feet	18 feet	20 feet
Maximum Size (detached or attached ADU)	800 sq. ft.	850 sq. ft. (studio or 1-bedroom) and 1000 sq. ft. (2-bedroom unit)	850 sq. ft. (studio or 1-bedroom) and 1000 sq. ft. (2- bedroom unit)
Maximum Size (Garage Conversion)	May expand by up to 150 sq. ft.	May expand up to a total of 850-1000 sq. ft. if the homeowner moves the structure outside the 4 ft. setback	May expand up to a total of 850-1000 sq. ft.—for all garage conversions

	Hillside District Proposal (Staff/Planning Commission)	Outside Hillside District Flats Proposal (Staff/Planning Commission)	RECOMMEND Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson)	
			Hillside District	Outside Hillside District Flats

	Hillside District Proposal (Staff/Planning Commission)	Outside Hillside District Flats Proposal (Staff/Planning Commission)	<u>RECOMMEND</u> Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson)	
Protrusions into 4 ft. Setback	Allows all listed architectural features	Allows all listed architectural features	Allows no protrusions	Allows all listed architectural features, except bay windows
Definition of “Detached” ADUs	Defines as being at least 3 ft. separate from the main dwelling	Defines as being at least 3 ft. separate from the main dwelling	Delete the 3-ft. separation criterion	Delete the 3-ft. separation criterion
By-Right Roof Decks	Allows ADU roof decks by right	Allows ADU roof decks by right	Eliminates ADU roof decks by right	Eliminates ADU roof decks by right
Objective Design Standards	None	None	None	None

Maximum Height of 20 Feet Outside the Hillside District (in the Flats) and 16 Feet in the Hillside District. This amendment would allow two-story ADUs outside the Hillside District (in the flats), which will preserve more open yard space and pervious surface, lower the cost, and make ADUs feasible where otherwise they were not. Twenty-foot height allows the same square footage to go up rather than out. This means, for example, that an 800 square foot ADU would take up only 400 square feet of yard space rather than 800 square feet of yard space. This amendment does not change the maximum size of an ADU; rather, it allows all lots, including some problematic lots in West Berkeley, to comfortably fit two stories and thereby take up less open yard space. Besides helping to preserve yard space, it also reduces the amount of land converted to impervious surfaces in order to build housing. Maintaining land area that can percolate storm water will help minimize storm runoff and the flooding and destruction it can cause.

This extra height gives homeowners more flexibility to build ADUs on problematic sites, to avoid current and future flooding and contaminated underground water, and to avoid the impact of sea level rise on the groundwater table. Especially in West Berkeley, sites currently experience occasional flooding, and the groundwater table is already very high. In other areas of the City, builders may lower the bottom floor and foundation of an

ADU to gain sufficient interior height, a technique that is not practical in West Berkeley due to the high groundwater table. A 20-foot height limit gives homeowners more options that cost less. They can build two stories without expensive excavation, complex moisture barriers and sewerage ejectors. They can use short piers as a foundation, keeping occasional floodwater and ground moisture at bay. These construction options lower costs, making ADUs accessible to more homeowners. The extra height also creates opportunities for better quality design, with more variation in roof pitch and floor to ceiling height, for example.

Why not 20 feet height in the Hillside District?

The current 16-foot height limit in the Hillside District keeps ADUs aligns with the minimum requirements pursuant to state ADU law. The lower height discourages ADU construction because it is more difficult and expensive, and therefore less desirable to build a 16-foot tall structure on steep slopes. It's important to recall that state law does not give local jurisdictions the authority to ban ADU construction in the Hillside District, and residents of the hills are currently able to obtain a permit to construct an ADU under state law whether we have a local ordinance in place or not.

Maximum ADU Size of 850 to 1000 Square Feet Outside the Hillside District and 800 Square Feet in the Hillside District.

We support the amendments proposed by Staff and Planning Commission for maximum ADU sizes. Outside the Hillside District in the flats, ADUs may be up to 850 square feet for studio and one-bedrooms units, and up to 1000 square feet for units with two-bedrooms or more. In the Hillside District, ADUs may only be up to 800 square feet in accordance with the minimum requirements pursuant to state ADU law. These standards are consistent with state ADU law, Government Code Section 65852.2.

Why not 850-1000 square feet ADUs in the Hillside District?

Larger ADUs are more likely to house more people than smaller ones, so limiting the size will help reduce the number of additional people and parked cars in the Hillside District. By keeping ADUs as small as legally allowable in the Hillside District, we minimize fire risk in that area.

Garage Conversion Maximum Expansion to 850 to 1000 Square Feet Outside the Hillside District and Only an Additional 150 Square Feet in the Hillside District.

State ADU law guarantees that a garage may be converted into an ADU, at its current location and dimensions, and expanded by 150 square feet. The resulting ADU, of about 350 square feet, is too small for many households' needs. The proposed

ordinance (from Staff/Planning Commission) would allow garage conversions to expand up to the maximum ADU size (850 square feet for a studio or one-bedroom unit and 1000 square feet for a two-bedroom unit) with one condition—that the converted garage be moved at least four feet from the property line. We propose dropping the four-foot setback condition outside the hillside district in the flats; that is, allowing any garage conversion in the flats to expand up to the maximum ADU sizes, *as long as the new square footage meets the setback and height requirements.*

This change makes ADUs more accessible for smaller properties, which increases equity within the flats. It creates options for homeowners to use their property more efficiently while also maximizing their use of their small backyards. For many families, a 350 square foot ADU is just too small. Garage conversions are often the most cost-effective way to build an ADU. Many garages in Berkeley are built on the property line, so moving them over four feet (in order to enlarge it) is expensive and makes more of the yard unusable. Homes with large backyards may voluntarily opt to move their ADU over four feet. But homes with small backyards, like most parcels in the flats, have less land to work with, so that setback area is very precious. Rather than allow the 80 square feet (20 square feet garage by 4 feet setback area) to be unused, families want to consolidate it with the rest of their yard, making their whole property more useful.

Some communities, such as Albany, allow dwelling units to be built in the setback area if the height is modest. In our minds, the tradeoff between allowing housing to use the setback in some limited cases (outside the Hillside District) is more important than strict adherence to the planning principle of setbacks.

Why not in the Hillside District?

We propose that garage conversions in the Hillside District may expand up to the state required 150 square feet, not 850 to 1000 square feet, in order to discourage large ADUs in the Hillside District. This provision is consistent with state law.

Protrusions into the 4-Foot Setback Are Allowed for Everything Except Bay Windows Outside the Hillside District. But In the Hillside District, No Protrusions Allowed.

The Staff/Planning Commission proposal allows numerous architectural features to extend two feet into a 4-foot setback area, which the Berkeley Zoning Code currently allows for all single-family homes. We propose that outside the Hillside District, in the flats, that bay windows be removed from that list of items that may extend into the setback. In deference to existing neighbors, we believe that allowing bay windows by right into the side and rear setback areas may affect their privacy and isn't necessary for a by-right ADU. Other equipment, such as a water heater enclosure, are typically

allowed in the setback and should remain. They don't affect privacy, occupy a small footprint, and help maintain a useful yard.

Why not in the Hillside District?

Due to the fire risks in the Hillside District, we propose that the City not allow these protrusions into the side and rear setbacks. Keeping the setback areas passable is more important for evacuation and to reduce the likelihood of conflagration from building to building.

Modify the definition of a detached ADU [23C.24.040.A.1] by removing the clause that it is at least 3 feet from the main dwelling, thereby allowing Berkeley's "detached ADU" definition to be consistent with state ADU law and with other California local governments.

Staff proposes to define a "detached" ADU as having a 3 foot separation from the main building per Section 23E.04.030. If adopted as proposed, Berkeley's definition will conflict with state ADU law that includes no such qualifier. It will also differ from that of other California jurisdictions. Staff asserts that this definition will not have any effect on how ADUs are regulated in Berkeley, but it may cause confusion among ADU builders who must learn that Berkeley's definition differs from that of other jurisdictions. Since staff asserts that it makes no difference to the outcome, to avoid unnecessary confusion, we propose that this sentence be deleted.

By-Right Roof Decks Are Not Allowed Outside or In the Hillside District, But Are Allowed with an Administrative Use Permit.

The Staff/Planning Commission proposal allows roof decks under the maximum height by right. We propose that roof decks not be allowed by right, allowing them to still be allowed with an Administrative Use Permit. Given that we are proposing 20 feet of height by right, we think it's reasonable to require rooftop decks to go through an Administrative Use Permit process.

Why not in the Hillside District?

In this case, we propose that the Hillside District and the flats be treated the same, even though the ADU height limits are different. Roof decks have been a contentious issue with neighbors and we see no reason why roof decks should be allowed by right. In both the Hillside District and the flats, roof decks continue to be allowed with an Administrative Use Permit.

Objective Design Standards Are Not Required for Larger ADUs Outside or In the Hillside District.

The City of Berkeley does not impose any objective design standards for single-family properties and Berkeley residents have always cherished residential design freedom. Why impose standards on small homes, which are typically in backyards and barely visible from the street when we don't impose them on large homes? It will increase the cost of construction by removing some lower-cost options (like pre-fabricated units). Also, these design standards could only be applied to some ADUs, creating unnecessarily administrative complexity and confusion.

Why not in the Hillside District?

State law will not allow local governments to impose design standards on ADUs less than 800 square feet and up to 16 feet tall. Larger and taller ADUs are not allowed in the Hillside District as currently proposed.

Changes by City of Berkeley Staff Will Appropriately Discourage ADU Construction in the Hillside District.

We support the recent amendment to the Berkeley Fire Code to require fire sprinklers for properties that add an ADU or Junior ADU in the Hillside District. ~~---~~ Government Code Section 65852.2 (a)(1)(D)(vii) and (e)(3) states that local governments may not require that fire sprinklers be installed in ADUs unless the main dwelling already has fire sprinklers. Berkeley recently avoided conflicting with this restriction by amending the Fire Code to require installation of fire sprinklers in the Hillside District for any new construction over \$100,000, including major renovations, additions, ADUs, and Junior ADUs. Both the new dwelling unit and the existing main dwelling must be sprinklered. Since very few units may be created for less than \$100,000, the requirement in reality applies to all ADUs in the Hillside District. Using ~~+~~ the Fire Department's estimate ~~s~~ cost per square foot (\$12.88 per square foot), that adding fire sprinklers to a 2,500 square foot home that adds a 500 square foot ADU will increase the cost by \$38,640~~20,000~~ to \$40,000.

~~--- but believe the proposed citywide 3-foot separation between ADUs and the main building will have unintended consequences in the flats for small parcels. Staff's proposed ADU Ordinance requires detached ADUs to be at least 3 feet from the dwelling unit citywide. This requirement is appropriate for the Hillside District given its fire risk, but would also have the effect of reducing options for good design on smaller lots in the flats and making it difficult to preserve yard area.~~

Outside the Hillside District, Allow All Garage Conversions to Expand Up To Berkeley's Maximum ADU Size. The state law (Government Code Section 65852.2.e.1.A.i) ~~allows all garage conversions to expand by right up to 150 square feet.~~

Since homeowners may create only one ADU, they often need more space than this addition allows. They could build a larger detached ADU, but homeowners typically want to preserve as much of their open yard space as possible. Many garages in Berkeley are built along a side or rear property line; these garages could not expand more than 150 square feet unless the homeowner demolishes and rebuilds outside the 4-foot setback, according to staff's proposal. Requiring homeowners to demolish and rebuild to get adequate space increases the cost and makes it more difficult to build on small lots and preserve open yard space. We propose that all garage conversions outside the Hillside District be allowed to expand up to the City's maximum ADU size for the flats (850-1000 square feet). This change makes it easier to build an ADU on a small parcel, avoids the cost of an entirely new structure, and allows households to preserve open yard space.

City Planning Commission and Planning Staff Have Proposed Legally-Permissible ADU Restrictions for the Hillside District, And the Amendments Proposed Here Go Further to Discourage ADUs In Fire Zones. Our proposed amendments are designed to discourage ADU construction in the Hillside District while still complying with the state's ADU requirements. As summarized in Exhibits 1A and 1B below, in the Hillside District, homeowners may only build ADUs by right up to 800 square feet in size (detached or attached), up to 16 feet high, and at a 4-foot setback. They may also convert their garage to an ADU and expand it only by 150 square feet. As a result, when compared to properties in the flats, building an ADU in the Hillside District will be more expensive—due to installation of fire sprinklers, higher insurance costs, and difficulty meeting the height limit when building on a slope—and therefore less desirable to homeowners. Garage conversions will be less desirable because homeowners may only expand the garage by 150 square feet. Given the fire risk in the Hillside District, we believe it is an appropriate policy choice to enact ADU development standards that make it more costly and less desirable to build an ADU in this area. Outside the Hillside District, however, our proposed ADU standards will give homeowners more options, reduce cost, and incentivize the construction of ADUs.

Exhibit 1A: Summary of Proposed By-Right ADU Development Standards

Standard	RECOMMEND Hillside District Proposal (Staff/Planning Commission)	Flats Proposal (Staff/Planning Commission)	RECOMMEND Flats Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson
Maximum Height	<p>16 feet</p> <ul style="list-style-type: none"> Prevents two-story ADUs More expensive (than 18 or 20 ft.) because it requires some excavation into hillside 	<p>18 feet</p> <ul style="list-style-type: none"> Allows a 2-story ADU at minimum ceiling height Lowers cost (compared to 16 ft.) because it requires less digging; but increases cost (compared to 20 ft.) because it could require digging depending on slope of property Preserves more open yard space and pervious surface by allowing 2 stories (square footage does not increase from maximum of 850-1,000 sq. ft. for 2-story ADU) 	<p>20 feet</p> <ul style="list-style-type: none"> Provides West Berkeley residents with a high groundwater table the same construction costs and by-right building ability available to other flats residents In all flat areas, it allows better design and lowers costs (relative to 16 or 18 ft.) Preserves more open yard space and pervious surface by allowing 2 stories (square footage does not increase from maximum of 850-1,000 sq. ft. for 2-story ADU)
Square Footage (detached or attached ADU)	800 sq. ft.	850 sq. ft. for a studio or one-bedroom unit; 1000 sq. ft. for a 2-bedroom unit	Same as Flats Proposal from Staff/Planning Commission
Garage Conversion (including when garage is within the 4 ft. setback)	<p>Allows existing garage size plus 150 sq. ft.</p> <ul style="list-style-type: none"> Discourages garage conversion because the resulting ADU will likely be too small for many households 	<p>Allows a garage expansion up to 850-1000 sq. ft., if the homeowner moves the structure outside the 4 ft. setback</p> <ul style="list-style-type: none"> Costly to demolish and rebuild a structure Discourages garage conversion, especially on smaller parcels, because the 4 ft. setback area is not usable for open yard space 	<p>Allows a garage expansion up to 850-1000 sq. ft., without moving the structure outside the 4 ft. setback:</p> <ul style="list-style-type: none"> Costs less than a new detached ADU Preserves more open yard space and pervious surface

Exhibit 1B: Summary of Additional Proposed By-Right ADU Development Standards

Standard	Hillside District Proposal (Staff/Planning Commission)	Flats Proposal (Staff/Planning Commission)	RECOMMEND Hillside District and Flats Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson
Protrusions into 4 ft. setback	Allows certain architectural features to protrude into the required setback area.	Allows certain architectural features to protrude into the setback area.	<p>For the Hillside District, delete 23C.24.040.F, which eliminates protrusions into the setback area.</p> <p>For outside the Hillside District, remove only bay windows from the list of architectural features allowed to protrude into the setback area</p> <ul style="list-style-type: none"> ● Prevents a fully windowed extension in the setback ● Allows equipment (like hot water heaters) to be placed in the setback ● Preserves more open yard space and pervious surface
Building Separation	Requires 3 ft. separation between the ADU and the main building	Requires 3 ft. separation between the ADU and the main building	<p>For the Hillside District, keeps 3 ft. separation requirement</p> <p>For outside the Hillside District, eliminates 3 ft. separation requirement</p> <ul style="list-style-type: none"> ● Facilitates good design, especially in smaller yards by maximizing options for building location ● Maximizes open yard space and pervious surface ● Fire, Safety requirements and access are already addressed in the building code
By-Right Roof Decks	Allows by right	Allows by right	Eliminates ADU roof decks as by right

CONTACT PERSON

Councilmember Rashi Kesarwani, District 1

(510) 981-7110

Attachment:

Attachment A. Draft language implementing the amendments proposed above

Attachment A. Language Implementing the Amendments Proposed Above

1. Proposed amendment outside the Hillside District to increase the allowed maximum ADU height to 20 feet

23C.24.040 Development Standards

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

1. Maximum Height of a detached, new construction ADU is ~~18~~ 20 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is ~~18~~ 20 feet.

2. Proposed amendment outside the Hillside District to allow all garages (and other accessory structures) converted to an ADU to remain at their original locations and expand up to the maximum allowed ADU size (850-1000 square feet), as long as the new square footage is outside the four-foot setback and meets the height requirement. ADUs within the Hillside District will still be able to expand up to the state-mandated 150 square feet.

23C.24.040 Development Standards

B. Maximum Size

1. A detached, new construction ADU, or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. ~~Outside the Hillside District, an~~ ADU created from an existing Accessory Building or Accessory Structure that does not conform to the Development Standards in Paragraphs C and D may ~~include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure~~ expand beyond the physical dimensions of the existing building or structure if the new construction is outside the four-foot setbacks and conforms to the height limit. Additions shall conform with the Development Standards in this Chapter.

3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure **within the Hillside District**; or **elsewhere**
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
3. Proposed amendment outside the Hillside District to modify 23C.24.040 (Development Standards) paragraph F by removing bay windows from the list of architectural features that may protrude into the required setback.

23C.24.040 Development Standards

- F. Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, **and Awnings and Bay Window**) for properties **outside the Hillside District** may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.
4. Proposed amendment citywide to modify the definition of “detached ADU” by removing the criteria that it is separated from the main building by 3 feet.

23C.24.040 Development Standards

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 1. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. ~~A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section 23E.04.030.~~
5. Proposed amendment citywide to remove 23C.24.050 (Special Provisions) subsection A, which allows for rooftop decks by right, but continues to allow them with an Administrative Use Permit as required for all other rooftop decks.

23C.24.050 Special Provisions

~~A rooftop deck may be established provided that the entire roof, deck, and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.~~

6. Proposed amendment citywide to specify that objective design standards are not required for ADUs of any size citywide.

23C.24.050 Special Provisions

D. Objective design standards are not required for ADUs of any size.



Rashi Kesarwani
Councilmember District 1

ACTION CALENDAR
October 26, 2021

To: Mayor and Council
From: Councilmember Rashi Kesarwani (Author) and Councilmembers Ben Bartlett, Terry Taplin, and Rigel Robinson (Co-Sponsors)
Subject: Accessory Dwelling Unit (ADU) Amendments to Enhance Equity and Mitigate Fire Risk in Hills

RECOMMENDATION

Recommend adoption of the proposed ADU Ordinance that requires development standards for creation of ADUs that are consistent with state Government Code Section 65852.2, with the following amendments:

1. Outside the Hillside Overlay District (Referred to as Hillside District, BMC 23E.96), increase the allowed maximum ADU height by-right to 20 feet to enable the same construction costs and by-right building opportunities for residents in West Berkeley, where the groundwater table is high and would therefore cause the cost of construction to be higher if the by-right height limit is only 18 feet.
2. Outside the Hillside District, allow conversion of a garage (or other accessory structure) to an ADU to expand up to the maximum allowed ADU size, as long as the new square footage is outside the required setback.
3. Citywide, modify the proposed definition of “detached ADUs” to exclude the criteria that a detached ADU is at least 3 feet from the main dwelling. This change allows Berkeley’s ADU definition to be consistent with state ADU law and other California local governments.
4. Outside the Hillside District, modify the proposed 23C.24.040 (Development Standards) section F by removing bay windows from the list of architectural features (such as water heater enclosures) that may protrude into the required setback. This change will give homeowners in the flats the flexibility to place necessary equipment in the setback (thereby saving additional open yard space), but would remove the ability for a bay window to protrude into the setback in order to mitigate possible privacy concerns of neighbors. As proposed by Staff/Planning Commission, Section 23C.24.040.F does not apply in the Hillside District.

5. Citywide, remove the proposed 23C.24.050 (Special Provisions) subsection A, which allows for rooftop decks by right, but continue to allow them with an Administrative Use Permit as required for all other rooftop decks.
6. Citywide, specify that objective design standards are not required for ADUs of any size, as this would be a new standard to which single-family homes are not subject. Objective design standards are already banned for certain by-right ADUs pursuant to state law; applying these standards to larger ADUs could preclude the use of pre-fabricated units and would be overly burdensome for structures that are typically in backyards and not visible from the street.

Further, refer to the Nov. 4 City Council Legislative Platform Meeting, a discussion of appropriate changes to state ADU law that the City Council may wish to incorporate into its 2022 State Legislative Platform in order to seek further legally permissible fire safety measures in the Hillside District.

CURRENT SITUATION AND ITS EFFECTS

City of Berkeley Has Already Faced Legal Challenge Related to ADU Restrictions in the Hillside Overlay District¹.

During 2019, the City of Berkeley required an Administrative Use Permit for ADUs built in the Hillside District on roadways with less than 26 feet width. In late 2019, in response to new state ADU law, the City adopted an urgency ordinance that continued to ban any new dwelling units in Fire District 3 (Panoramic Hill) and banned ADUs on roads less than 26 feet wide in Fire District 2 (i.e., the Hillside District) (See 12-10-2019 City Council Meeting, Item 30: Urgency Ordinance). Hans Stahlschmidt and Patricia Stahlchmidt Hart, homeowners in the Berkeley Hills, sued the City for procedural obstacles to building an ADU. As a result, the City learned from HCD that its urgency ordinance violated state ADU law, Government Code 65852.2(e) (see Case No. RG20069713) because it wrongfully prohibited ADUs from certain areas in the Hillside District. See Government Code Section 65852.2(e)(1), which specifies that local governments may not use other parts of the ADU law—subdivisions (a) to (d)—to designate areas where ADUs may not be built.

The City of Berkeley settled out of court, allowed the ADU construction to proceed, and paid the petitioners' legal fees (see 3-9-2021 City Council Item 2). Subsequently, the City repealed its urgency ordinance. Since then, the City has approved ADU permits under the state law provisions, as Berkeley has not yet adopted a local ordinance that complies with Government Code Section 65852.2.

¹ Area defined as such by the official City of Berkeley Zoning Map, regulated by BMC 23E.96.

State Law Allows By-Right ADUs on All Single-Family Properties Beginning January 1, 2020.

State Government Code Section 65852.2(e)(1)(A) provides two options for creating one ADU “by right” per single-family parcel:

(1) A detached or attached “by-right” ADU on single-family properties, with cities applying only three development standards: at least 800 square feet large; at least 16 feet tall; and no more than 4 feet required side and rear yard setbacks.(2) To convert a garage (or other accessory building) into an ADU by-right, keeping the original footprint and dimensions (or rebuilding at the same location with similar dimensions). Local governments may not further restrict these ADUs as long as they meet the state and local Building Codes. The state Housing and Community Development (HCD) Department refers to these as “statewide exempt ADUs” and notes that “ADUs created under Government Code Section 65852.2(e) shall not be subject to design and development standards except for those that are noted in the subdivision.”²

Prior ADU Restrictions for the Hillside District are No Longer Legally Permissible.

Over the years, different restrictions on ADUs in the Hillside District have been adopted, proposed, or discussed. As of January 2020, these restrictions (identified below) are no longer consistent with Government Code Section 65852.2(e).

- **Restrictions on Where an ADU Can Be Built Based on Street Width.** Under Government Code Section 65852.2(e), local governments may no longer prohibit ADUs based on street widths. Local governments must allow “statewide exempt” ADUs on all single-family properties.
- **Requiring Off-Street Parking.** For years many local jurisdictions required creation of one off-street parking place to create an ADU, both inside and outside of hillside areas. Government Code Section 65852.2(d) now exempts all parcels that are within a half-mile of transit from any required off-street parking. All of the City of Berkeley meets that standard, so off-street parking may not be required anywhere in Berkeley.
- **Requiring “Replacement Parking.”** In the past, local jurisdictions frequently required the replacement (on-site) of any off-street parking space removed due to the creation of an ADU. Government Code Section 65852.2(a) and (e) now exempt all ADUs from that requirement for enclosed or covered parking spaces.

² See pages 14-15, California Department of Housing and Community Development, *Accessory Dwelling Unit Handbook*, Dec. 2020, https://www.hcd.ca.gov/policy-research/docs/adu_december_2020_handbook.pdf for further explanations on these rights.

Policy Rationale for Proposed Amendments to ADU Development Standards

Our objective is to limit ADUs in the Hillside District to the minimum required by state law. Outside the Hillside District (in the flats), we propose to adopt amendments that make it easier and cheaper to build ADUs in order to increase equity among all flats homeowners while protecting the environment.

Exhibit 1: Summary of Proposed Development Standards

Standard	<u>RECOMMEND</u> Hillside District Proposal (Staff/Planning Commission)	Outside Hillside District Flats Proposal (Staff/Planning Commission)	<u>RECOMMEND</u> Outside Hillside District Flats Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson)
Maximum Height	16 feet	18 feet	20 feet
Maximum Size (detached or attached ADU)	800 sq. ft.	850 sq. ft. (studio or 1-bedroom) and 1000 sq. ft. (2-bedroom unit)	850 sq. ft. (studio or 1-bedroom) and 1000 sq. ft. (2- bedroom unit)
Maximum Size (Garage Conversion)	May expand by up to 150 sq. ft.	May expand up to a total of 850-1000 sq. ft. if the homeowner moves the structure outside the 4 ft. setback	May expand up to a total of 850-1000 sq. ft.—for all garage conversions

	Hillside District Proposal (Staff/Planning Commission)	Outside Hillside District Flats Proposal (Staff/Planning Commission)	<u>RECOMMEND</u> Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson)	
			Hillside District	Outside Hillside District Flats

	Hillside District Proposal (Staff/Planning Commission)	Outside Hillside District Flats Proposal (Staff/Planning Commission)	<u>RECOMMEND</u> Proposal as Amended Here by CMs Kesarwani, Bartlett, Taplin, and Robinson)	
Protrusions into 4 ft. Setback	Allows all listed architectural features	Allows all listed architectural features	Allows no protrusions	Allows all listed architectural features, except bay windows
Definition of “Detached” ADUs	Defines as being at least 3 ft. separate from the main dwelling	Defines as being at least 3 ft. separate from the main dwelling	Delete the 3-ft. separation criterion	Delete the 3-ft. separation criterion
By-Right Roof Decks	Allows ADU roof decks by right	Allows ADU roof decks by right	Eliminates ADU roof decks by right	Eliminates ADU roof decks by right
Objective Design Standards	None	None	None	None

Maximum Height of 20 Feet Outside the Hillside District (in the Flats) and 16 Feet in the Hillside District. This amendment would allow two-story ADUs outside the Hillside District (in the flats), which will preserve more open yard space and pervious surface, lower the cost, and make ADUs feasible where otherwise they were not. Twenty-foot height allows the same square footage to go up rather than out. This means, for example, that an 800 square foot ADU would take up only 400 square feet of yard space rather than 800 square feet of yard space. This amendment does not change the maximum size of an ADU; rather, it allows all lots, including some problematic lots in West Berkeley, to comfortably fit two stories and thereby take up less open yard space. Besides helping to preserve yard space, it also reduces the amount of land converted to impervious surfaces in order to build housing. Maintaining land area that can percolate storm water will help minimize storm runoff and the flooding and destruction it can cause.

This extra height gives homeowners more flexibility to build ADUs on problematic sites, to avoid current and future flooding and contaminated underground water, and to avoid the impact of sea level rise on the groundwater table. Especially in West Berkeley, sites currently experience occasional flooding, and the groundwater table is already very high. In other areas of the City, builders may lower the bottom floor and foundation of an

ADU to gain sufficient interior height, a technique that is not practical in West Berkeley due to the high groundwater table. A 20-foot height limit gives homeowners more options that cost less. They can build two stories without expensive excavation, complex moisture barriers and sewerage ejectors. They can use short piers as a foundation, keeping occasional floodwater and ground moisture at bay. These construction options lower costs, making ADUs accessible to more homeowners. The extra height also creates opportunities for better quality design, with more variation in roof pitch and floor to ceiling height, for example.

Why not 20 feet height in the Hillside District?

The current 16-foot height limit in the Hillside District keeps ADUs aligns with the minimum requirements pursuant to state ADU law. The lower height discourages ADU construction because it is more difficult and expensive, and therefore less desirable to build a 16-foot tall structure on steep slopes. It's important to recall that state law does not give local jurisdictions the authority to ban ADU construction in the Hillside District, and residents of the hills are currently able to obtain a permit to construct an ADU under state law whether we have a local ordinance in place or not.

Maximum ADU Size of 850 to 1000 Square Feet Outside the Hillside District and 800 Square Feet in the Hillside District.

We support the amendments proposed by Staff and Planning Commission for maximum ADU sizes. Outside the Hillside District in the flats, ADUs may be up to 850 square feet for studio and one-bedrooms units, and up to 1000 square feet for units with two-bedrooms or more. In the Hillside District, ADUs may only be up to 800 square feet in accordance with the minimum requirements pursuant to state ADU law. These standards are consistent with state ADU law, Government Code Section 65852.2.

Why not 850-1000 square feet ADUs in the Hillside District?

Larger ADUs are more likely to house more people than smaller ones, so limiting the size will help reduce the number of additional people and parked cars in the Hillside District. By keeping ADUs as small as legally allowable in the Hillside District, we minimize fire risk in that area.

Garage Conversion Maximum Expansion to 850 to 1000 Square Feet Outside the Hillside District and Only an Additional 150 Square Feet in the Hillside District.

State ADU law guarantees that a garage may be converted into an ADU, at its current location and dimensions, and expanded by 150 square feet. The resulting ADU, of about 350 square feet, is too small for many households' needs. The proposed

ordinance (from Staff/Planning Commission) would allow garage conversions to expand up to the maximum ADU size (850 square feet for a studio or one-bedroom unit and 1000 square feet for a two-bedroom unit) with one condition—that the converted garage be moved at least four feet from the property line. We propose dropping the four-foot setback condition outside the hillside district in the flats; that is, allowing any garage conversion in the flats to expand up to the maximum ADU sizes, *as long as the new square footage meets the setback and height requirements.*

This change makes ADUs more accessible for smaller properties, which increases equity within the flats. It creates options for homeowners to use their property more efficiently while also maximizing their use of their small backyards. For many families, a 350 square foot ADU is just too small. Garage conversions are often the most cost-effective way to build an ADU. Many garages in Berkeley are built on the property line, so moving them over four feet (in order to enlarge it) is expensive and makes more of the yard unusable. Homes with large backyards may voluntarily opt to move their ADU over four feet. But homes with small backyards, like most parcels in the flats, have less land to work with, so that setback area is very precious. Rather than allow the 80 square feet (20 square feet garage by 4 feet setback area) to be unused, families want to consolidate it with the rest of their yard, making their whole property more useful.

Some communities, such as Albany, allow dwelling units to be built in the setback area if the height is modest. In our minds, the tradeoff between allowing housing to use the setback in some limited cases (outside the Hillside District) is more important than strict adherence to the planning principle of setbacks.

Why not in the Hillside District?

We propose that garage conversions in the Hillside District may expand up to the state required 150 square feet, not 850 to 1000 square feet, in order to discourage large ADUs in the Hillside District. This provision is consistent with state law.

Protrusions into the 4-Foot Setback Are Allowed for Everything Except Bay Windows Outside the Hillside District. But In the Hillside District, No Protrusions Allowed.

The Staff/Planning Commission proposal allows numerous architectural features to extend two feet into a 4-foot setback area, which the Berkeley Zoning Code currently allows for all single-family homes. We propose that outside the Hillside District, in the flats, that bay windows be removed from that list of items that may extend into the setback. In deference to existing neighbors, we believe that allowing bay windows by right into the side and rear setback areas may affect their privacy and isn't necessary for a by-right ADU. Other equipment, such as a water heater enclosure, are typically

allowed in the setback and should remain. They don't affect privacy, occupy a small footprint, and help maintain a useful yard.

Why not in the Hillside District?

Due to the fire risks in the Hillside District, we propose that the City not allow these protrusions into the side and rear setbacks. Keeping the setback areas passable is more important for evacuation and to reduce the likelihood of conflagration from building to building.

Modify the definition of a detached ADU [23C.24.040.A.1] by removing the clause that it is at least 3 feet from the main dwelling, thereby allowing Berkeley's "detached ADU" definition to be consistent with state ADU law and with other California local governments.

Staff proposes to define a "detached" ADU as having a 3 foot separation from the main building per Section 23E.04.030. If adopted as proposed, Berkeley's definition will conflict with state ADU law that includes no such qualifier. It will also differ from that of other California jurisdictions. Staff asserts that this definition will not have any effect on how ADUs are regulated in Berkeley, but it may cause confusion among ADU builders who must learn that Berkeley's definition differs from that of other jurisdictions. Since staff asserts that it makes no difference to the outcome, to avoid unnecessary confusion, we propose that this sentence be deleted.

By-Right Roof Decks Are Not Allowed Outside or In the Hillside District, But Are Allowed with an Administrative Use Permit.

The Staff/Planning Commission proposal allows roof decks under the maximum height by right. We propose that roof decks not be allowed by right, allowing them to still be allowed with an Administrative Use Permit. Given that we are proposing 20 feet of height by right, we think it's reasonable to require rooftop decks to go through an Administrative Use Permit process.

Why not in the Hillside District?

In this case, we propose that the Hillside District and the flats be treated the same, even though the ADU height limits are different. Roof decks have been a contentious issue with neighbors and we see no reason why roof decks should be allowed by right. In both the Hillside District and the flats, roof decks continue to be allowed with an Administrative Use Permit.

Objective Design Standards Are Not Required for Larger ADUs Outside or In the Hillside District.

The City of Berkeley does not impose any objective design standards for single-family properties and Berkeley residents have always cherished residential design freedom. Why impose standards on small homes, which are typically in backyards and barely visible from the street when we don't impose them on large homes? It will increase the cost of construction by removing some lower-cost options (like pre-fabricated units). Also, these design standards could only be applied to some ADUs, creating unnecessarily administrative complexity and confusion.

Why not in the Hillside District?

State law will not allow local governments to impose design standards on ADUs less than 800 square feet and up to 16 feet tall. Larger and taller ADUs are not allowed in the Hillside District as currently proposed.

Changes by City of Berkeley Staff Will Appropriately Discourage ADU Construction in the Hillside District.

We support the recent amendment to the Berkeley Fire Code to require fire sprinklers for properties that add an ADU or Junior ADU in the Hillside District. Government Code Section 65852.2 (a)(1)(D)(vii) and (e)(3) states that local governments may not require that fire sprinklers be installed in ADUs unless the main dwelling already has fire sprinklers. Berkeley recently avoided conflicting with this restriction by amending the Fire Code to require installation of fire sprinklers in the Hillside District for any new construction over \$100,000, including major renovations, additions, ADUs, and Junior ADUs. Both the new dwelling unit and the existing main dwelling must be sprinklered. Since very few units may be created for less than \$100,000, the requirement in reality applies to all ADUs in the Hillside District. Using the Fire Department's estimated cost per square foot (\$12.88 per square foot), adding fire sprinklers to a 2,500 square foot home that adds a 500 square foot ADU will increase the cost by \$38,640.

CONTACT PERSON

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Attachment:

Attachment A. Draft language implementing the amendments proposed above

Attachment A. Language Implementing the Amendments Proposed Above

1. Proposed amendment outside the Hillside District to increase the allowed maximum ADU height to 20 feet

23C.24.040 Development Standards

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

1. Maximum Height of a detached, new construction ADU is ~~18~~ 20 feet.
2. Maximum Height of new square footage added to a Single Family Dwelling, Accessory Building or Accessory Structure to create an ADU is ~~18~~ 20 feet.

2. Proposed amendment outside the Hillside District to allow all garages (and other accessory structures) converted to an ADU to remain at their original locations and expand up to the maximum allowed ADU size (850-1000 square feet), as long as the new square footage is outside the four-foot setback and meets the height requirement. ADUs within the Hillside District will still be able to expand up to the state-mandated 150 square feet.

23C.24.040 Development Standards

B. Maximum Size

1. A detached, new construction ADU, or an ADU fully or partially created by addition to an existing or proposed Single Family Dwelling is subject to the following maximum size limits:
 - a. 850 square feet for a studio or one-bedroom ADU.
 - b. 1000 square feet for an ADU with two or more bedrooms.
2. ~~Outside the Hillside District, an~~ ADU created from an existing Accessory Building or Accessory Structure that does not conform to the Development Standards in Paragraphs C and D may ~~include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing building or structure~~ expand beyond the physical dimensions of the existing building or structure if the new construction is outside the four-foot setbacks and conforms to the height limit. Additions shall conform with the Development Standards in this Chapter.

3. An ADU created from an existing Accessory Building or Accessory Structure that conforms to the Development Standards in Paragraphs C and D must comply with one of the following:
 - a. May include an expansion of not more than 150 square feet beyond the same physical dimensions of the existing building or structure **within the Hillside District**; or **elsewhere**
 - b. 850 square feet for a studio or one-bedroom ADU; or
 - c. 1000 square feet for an ADU with two or more bedrooms.
3. Proposed amendment outside the Hillside District to modify 23C.24.040 (Development Standards) paragraph F by removing bay windows from the list of architectural features that may protrude into the required setback.

23C.24.040 Development Standards

- F. Projections. Architectural features (Chimneys, Water Heater Enclosures, Flues, Heating and Cooling Equipment, Eaves, Cornices, Canopies, **and Awnings and Bay Window**) for properties **outside the Hillside District** may project two feet into the required setbacks, so long as there remains at least a two-foot setback from property lines.
4. Proposed amendment citywide to modify the definition of “detached ADU” by removing the criteria that it is separated from the main building by 3 feet.

23C.24.040 Development Standards

- A. Development Standards in Paragraphs B through G, below, apply as follows:
 1. Detached New Construction. A detached, new construction ADU is subject to Development Standards for ADUs. **~~A detached, new construction ADU is defined as having a 3-foot separation from a Main Building per Section 23E.04.030.~~**
5. Proposed amendment citywide to remove 23C.24.050 (Special Provisions) subsection A, which allows for rooftop decks by right, but continues to allow them with an Administrative Use Permit as required for all other rooftop decks.

23C.24.050 Special Provisions

~~A rooftop deck may be established provided that the entire roof, deck, and railing comply with Development Standards for ADUs in Section 23C.24.040 Paragraphs C through G.~~

6. Proposed amendment citywide to specify that objective design standards are not required for ADUs of any size citywide.

23C.24.050 Special Provisions

D. Objective design standards are not required for ADUs of any size.