

Extension of ADU Urgency Ordinance

Presented by Planning Department and Fire Department
City Council Meeting January 21, 2020

What is an Urgency Ordinance?

- State law allows jurisdictions to adopt urgency ordinances
- Expedite the adoption process – take effect immediately
 - Standard process to adopt Zoning Ordinance amendments takes approximately three months
 - Requires 1 Public Hearing at Planning Commission, 1 Public Hearing at City Council, a 2nd reading at City Council, and 30-days to enact
- **Necessary to protect public health, safety and welfare of residents**

ADU Urgency Ordinance adopted on 12/10/19

Per California Government Code Section 65858

- Adoption with 7/9 vote of City Council
- Did not need a public hearing
- In effect for 45 days (expires January 24)
- **Ordinance can be extended for 10 months 15 days with:**
 - Publication of a report explaining action taken to address conditions
 - Public hearing
 - 7/9 vote of City Council

Why COB Needs an Urgency Ordinance?

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

- Significantly relaxes ADU regulations
- Came into effect on January 1, 2020
- Nullified Berkeley's existing ADU ordinance
- **Removed existing local protections in Berkeley's Fire Zones 2 and 3**

AB 881 Establishes Statewide Standards for ADUs

- Requires **ministerial approval** of ADU applications
 - Did not allow “grandfathering” of projects in pipeline or AUP approvals
- Allows ADUs in **all districts** zoned for residential use
- Dictates development standards
- Allows prohibition of ADUs in areas where they create an impact to public health

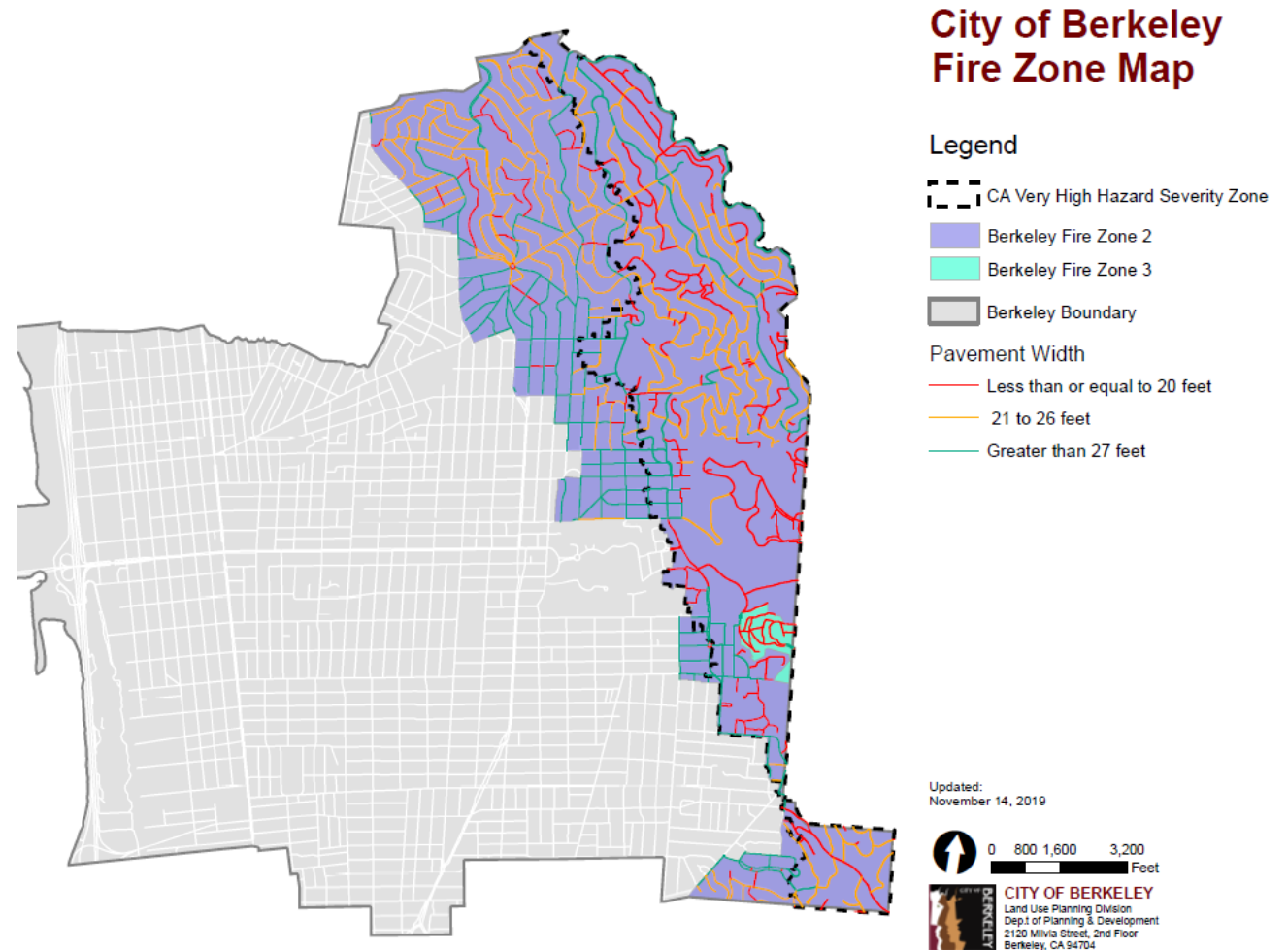
Local Protections Removed by AB 881

Fire Zone 3:

No ADUs allowed

Fire Zone 2:

Discretionary review of ADUs
and project specific mitigation
on streets <26 feet wide

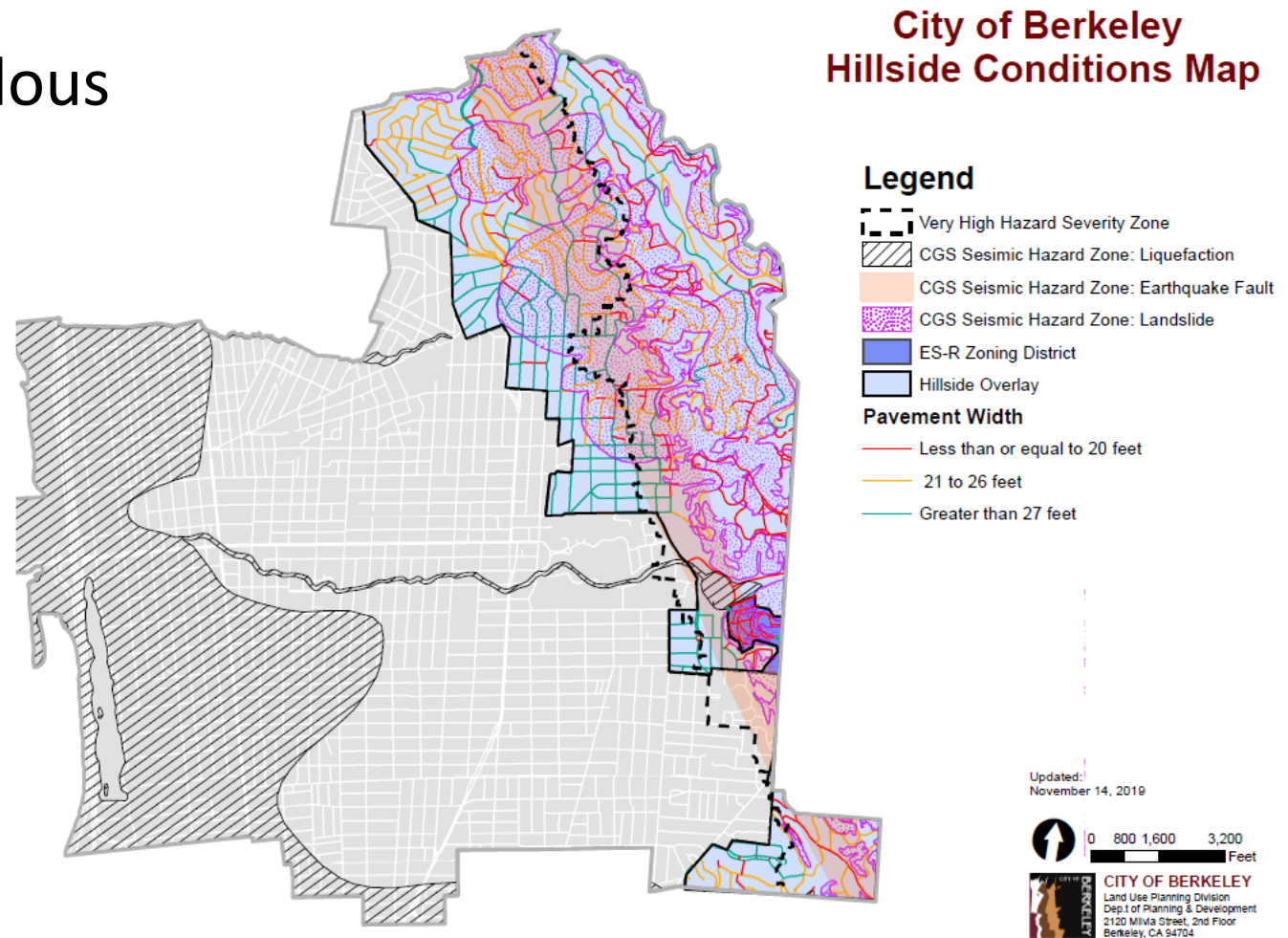


Public Safety is Berkeley's Number One Priority

Local protections address hazardous conditions in Fire Zones 2 and 3

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

Local protections reflect citywide efforts (i.e. Local Hazard Mitigation Plan and Safe Passages Program)



Emergency Access Challenges for First Responders

- Narrow, Winding Roads → large emergency vehicles
- Lot Configuration → increased distance to buildings
- Steep Slopes → challenging terrain
- On-street Parking → obstacles for emergency vehicles
- Increased Density → more people and more structures
- Fire Operation Equipment Needs
 - Unobstructed ingress and egress
 - Minimum distance to fire hydrants
 - Available street width

Urgency Ordinance Provides Interim Protections

- Fire Zone 3
 - Urgency Ordinance prohibits ADUs in Fire Zone 3
 - This is consistent with COB's previous (2019) ADU Ordinance
- Fire Zone 2
 - Urgency Ordinance prohibits ADUs in Fire Zone 2 on roads <26 feet in width
 - Previous ADU Ordinance allowed ADUs with discretionary review on roads <26 feet in width (e.g. site and project specific analysis, mitigation measures as condition of approval)
 - **AB 881 does not allow discretionary review**

Actions Since Urgency Ordinance Adoption

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

Next Steps

- Planning Department is awaiting California Department of Housing and Community Development (HCD) guidance documents on AB 881 (anticipated in January 2020)
- Planning Department and Fire Department will work together on AB 881-compliant Zoning Ordinance amendments that provide protections in Fire Zones 2 and 3
- Planning Department and Fire Department will work with Planning Commission, Disaster and Fire Safety Commission, and City Council on review and adoption of permanent ADU Ordinance via standard public process.

Timeline

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

Questions