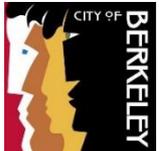


Accessory Dwelling Unit (ADU) Discussion



Agenda

- I. **Assembly Bill 1033 (ADU Condominiums)**
- II. **ADU Letter from HCD**
- III. **SB 1211- changes to state ADU laws**



California Department of Housing and Community Development
Where Foundations Begin

Accessory Dwelling Unit Memorandum

December 2018



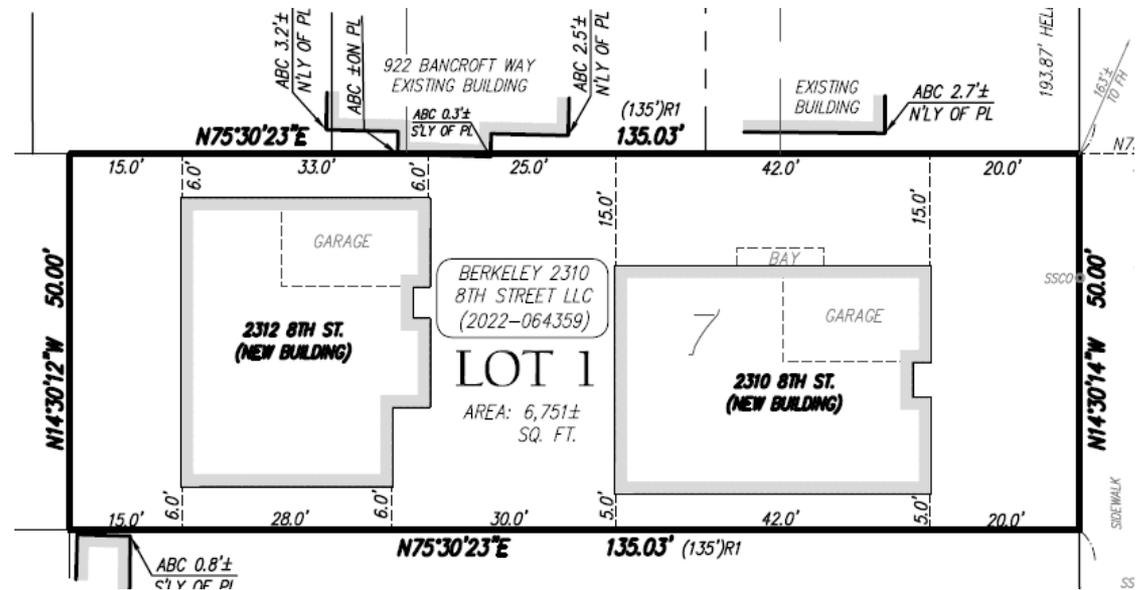
CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

ACCESSORY DWELLING UNIT HANDBOOK

January 2025



Assembly Bill 1033 (ADU Condominiums)



AB 1033 – Local Ordinance Requirements

Required

- **Compliance with Map Act, Davis-Sterling Act and the City's Subdivision Ordinance**
- **Lienholders' consent procedure**
- **Safety Inspection Report Procedure**
- **Consumer Disclosures Regarding Lender Requirements**

AB 1033 – Local Ordinance Requirements

- Compliance with Map Act, Davis-Sterling Act and the City's Subdivision Ordinance
- Lienholders' consent procedure
- Safety Inspection Report Procedure
- Consumer Disclosures Regarding Lender Requirements

Optional

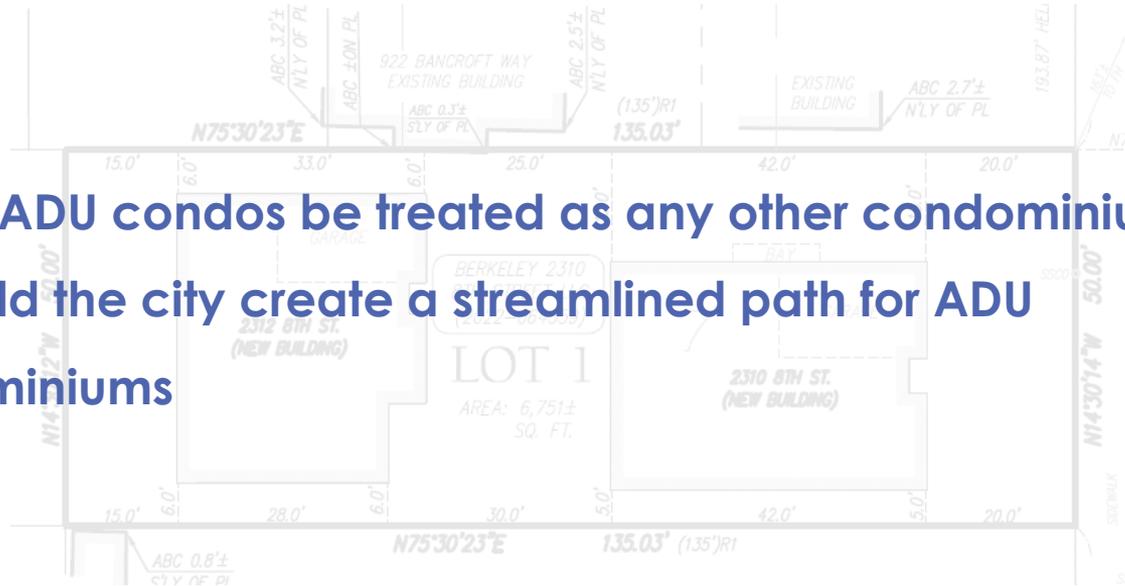
- Right of First Refusal

Existing City Regulations Governing Condos

- **Existing Subdivision Ordinance (BMC Title 21 (Subdivisions))**
 - Up to 4 Units – Parcel Map
 - 5 units or more – Tract Map
- **Existing Condo Conversion Ordinance (BMC Chapter 21.28)**
 - Annual cap of 100 units per year (BMC 21.28.040).
 - Tenant protections and right of first refusal.
 - Affordable Housing Mitigation Fee, which can be substantial.
 - Strict rental history requirements (BMC 21.28.060).
- **Berkeley Rent Ordinance (BMC Chapter 13.76)**

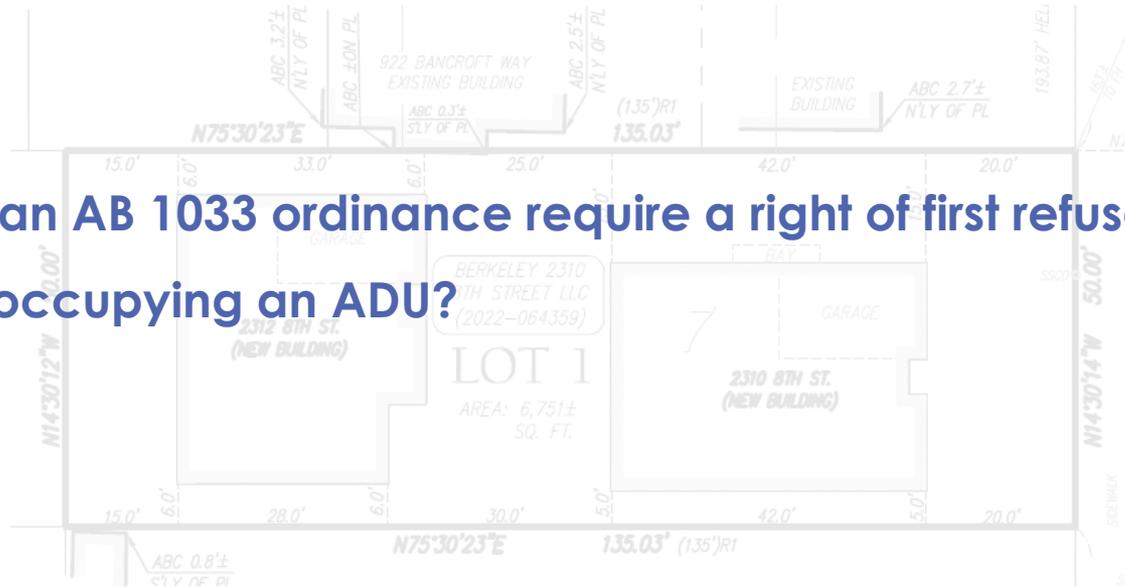
AB 1033 (ADU Condos) - Questions

- Should ADU condos be treated as any other condominium under or should the city create a streamlined path for ADU condominiums



AB 1033 (ADU Condos) - Questions

- Should an AB 1033 ordinance require a right of first refusal for any tenant occupying an ADU?



ADU Letter from HCD

- 1. Number of ADUs Permitted**
- 2. Conversion of Accessory Structures**
- 3. JADUs and Enclosed Uses**
- 4. Deed Restriction**
- 5. JADU Rental Term**

ADU Letter from HCD

1. Number of ADUs Permitted

Currently, the ordinance permits one ADU and one Junior ADU on a parcel with an existing SFR (**two units**)

HCD asserted that the state law permits:

- one converted ADU

- one detached, new construction ADU

- one JADU (**3 units**)

Question for the Planning Commission: Should the BMC be amended to clearly **allow up to three units** on a single-family property?

ADU Letter from HCD

2. Conversion of Accessory Structures

HCD found that the city must amend the BMC to remove the words “legally established” from BMC related to the conversion of accessory structures.

Question for the Planning Commission: Should the BMC be amended to remove the requirement that an accessory building or structure be “legally established” to be eligible for conversion to an ADU?

ADU Letter from HCD

3. JADU and Enclosed Uses

ADU ordinance allows JADUs “within an existing or proposed single family dwelling or its attached garage....”

JADU is defined as a unit that is contained entirely within the walls of an existing or proposed SFR or its attached garage.”

State law states “enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing SFR”

Question for the Planning Commission: Should the BMC be amended to explicitly expand eligibility to all “enclosed uses”?

ADU Letter from HCD

4. Deed Restriction

ADU ordinance states that a completed ADU application must include evidence of compliance including deed restrictions

HCD found that no local ordinance, policy, or regulation shall be the basis for the delay or denial of a permit under the ADU section

The city may not condition approval of an ADU application on the recordation of a deed restriction.

Question for the Planning Commission: Should the BMC be amended to remove the deed restriction requirements for a completed application?

ADU Letter from HCD

5. Deed Restriction

ADU ordinance states that that a JADU cannot be rented for a term that is shorter than 30 days

HCD found that the 30-day rental term minimum for JADUs must be removed

Question for the Planning Commission: Should the BMC be amended to remove the 30 days minimum rental term for JADUs?

SB 1211

Change	Before SB 1211	After SB 1211	Impact
ADU allowance on multifamily lots	Max 2 detached ADUs	Up to 8 detached ADUs but no more than existing units count)	More housing on multifamily lots
Development standards cities can impose	Some cities tried to impose additional zoning standards	Cities cannot apply any standards beyond § 66323(a) (no front setbacks, no design rules, etc.)	Prevents restrictive local rules

Question for the Planning Commission: Should the BMC be amended to remove the additional standards for all ADUs?

Additional Development Standard	ADU smaller then 800 sf or conversion	ADU bigger than 800 sf or attached ADU
Front Setback	Does not apply	Applies
Building Separation	Does not apply	Applies
Lot Coverage	Does not apply	Applies (beyond 800 sf)

Staff Recommendation

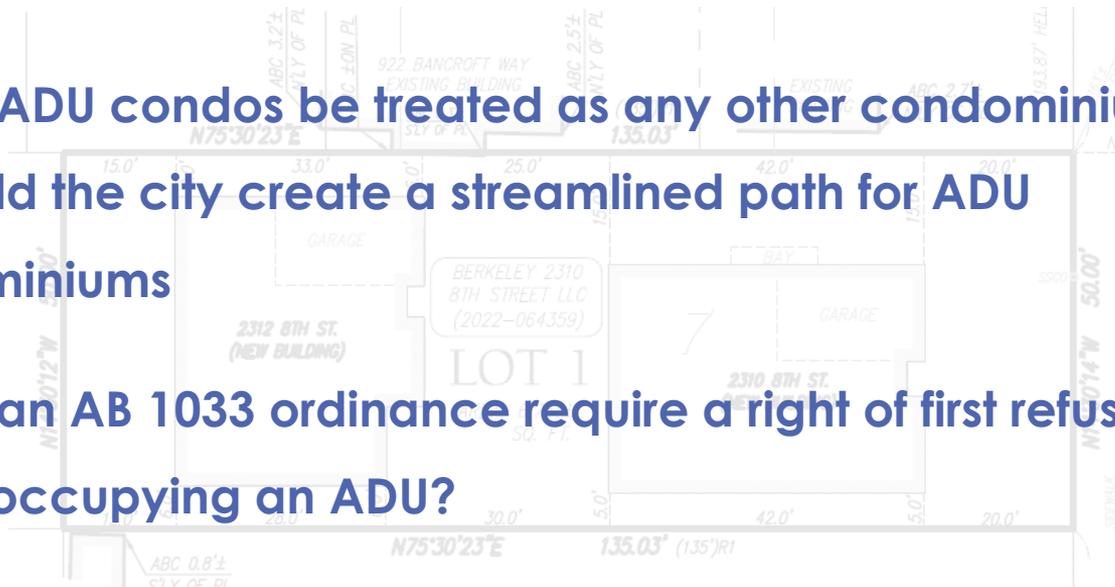
- **Consider public comments and provide feedback to staff on potential amendments to the ADU Ordinance.**

Thank you!

Branka Tatarevic, Planner
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AB 1033 (ADU Condos) - Questions

- Should ADU condos be treated as any other condominium under or should the city create a streamlined path for ADU condominiums
- Should an AB 1033 ordinance require a right of first refusal for any tenant occupying an ADU?



ADU Letter from HCD

5. Questions – Should the BMC be amended to:

Clearly **allow up to three units** on a single-family property?

Remove the requirement that an accessory building or structure be **“legally established”** to be eligible for conversion to an ADU?

Explicitly expand eligibility to all “enclosed uses”?

Remove the deed restriction requirements for a completed application?

Remove the 30 days minimum rental term for JADUs?

SB 1211

Change	Before SB 1211	After SB 1211	Impact
ADU allowance on multifamily lots	Max 2 detached ADUs	Up to 8 detached ADUs but no more than existing units count)	More housing on multifamily lots
Development standards cities can impose	Some cities tried to impose additional zoning standards	Cities cannot apply any standards beyond § 66323(a) (no front setbacks, no design rules, etc.)	Prevents restrictive local rules

Question for the Planning Commission: Should the BMC be amended to remove the front setbacks and building separation standards for all ADUs?