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Councilmember District 5

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: November 21, 2023

Item Number: 13

Item Description: Amendments to Berkeley Municipal Code Title 23 (Zoning Ordinance), the Zoning Map, General Plan Land Use Diagram, and the General Plan Relating to the Southside Zoning Implementation Program of the 2023-2031 Housing Element Update

Submitted by: Councilmember Sophie Hahn

Provides further detail and clarification on amendments proposed in Councilmember Hahn's previous supplemental.

This supplemental filing updates the Supplemental 2 Filing for the November 14, 2023 City Council meeting, continued to November 21, 2023, and reflects further research as well as conversation with the Planning Department. The numbered sections below correspond to numbered sections in the original Supplemental 2 filing. In addition, this supplemental supports including Prevailing Wages as a requirement for larger developments in the Southside area.

1. Recommend requiring green roofs and/or terraces in the Southside Area:

After further research and conversation with the Planning Department, incorporating a Green Roofs requirement into the Southside Area rezoning is feasible at this time, and would not require a long-term referral to accomplish. Other communities already have green roof requirements that can be easily adapted and included for adoption along with the Southside rezoning – and could subsequently be adopted Citywide. The Planning Director has indicated his staff would be able to provide appropriate language to include with the Southside Area zoning changes on a very short timeline.

Cambridge, Massachusetts requires green roofs and/or solar panels on 80% of the roof area on large buildings. Sloped roofs of 25% or more, mechanical areas, and patios/decks are excluded from the requirement. Usable spaces have railings and are set back 10 feet from the perimeter for additional safety.

Based on the Cambridge, MA requirements Berkeley could adopt regulations modelled after the following:

xx.xx Green Roofs

xx *Purpose.* To reduce urban heat gain, provide biodiverse habitat for birds and insects, generate solar power, and provide access and enjoyment of green roofs, new buildings of more than XXX square feet in the Southside Area shall include significant vegetation and/or solar energy roofing systems.

xx *Applicability.* This Section shall apply to any new building or structure of XXX gross square feet or more, except it shall not apply to affordable housing buildings with a majority of units permanently reserved for households at or below 100% of AMI.

xx *Definitions.*

Green Roof Area. An area atop of roof surface on the building covered by a layer of living vegetation planted in a minimum of four (4) inches of growth medium over a waterproofing system.

Solar Energy System. [Definition]

Biosolar Green Roof Area. Green Roof Area integrated with a Solar Energy System.

xx Requirement. At least 80% of the roof area of the building as measured in plan view, excluding those portions listed below, shall be devoted to Green Roof Area, Biosolar Green Roof Area, or Solar Energy Systems.

xx Exemptions.

1. Areas having a slope greater than 25%.
2. Areas designed and managed for use by building occupants or the general public, such as decks, patios, and seating areas.
3. Chimneys, water towers, HVAC equipment, elevator bulkheads, skylights, ventilators and other necessary features appurtenant to buildings which are usually carried above roofs and are not used for human occupancy, conduit, visual and acoustical screening, access routes for maintenance and service, and other areas that must be clear of obstruction to comply with applicable building and safety codes.

xx Requirement. All usable outdoor space shall be set back at least ten (10) feet from perimeter roof edges.



Example: Biosolar rooftop

For more information on the benefits of biosolar roofing, see the following article: “What is a biosolar roof and how could it change city living?”

https://medium.com/@green_wood/what-is-a-biosolar-roof-and-how-could-it-change-city-living-b2c71215d646

2. Requiring main living areas and bedrooms to have access to natural light and ventilation.

California’s Building Code (Title 24) does not require units or bedrooms to have windows. The 2019 California Residential Code (CRC), Section R310.1 requires that every sleeping room below the fourth story have at least one operable window or exterior door opening approved for emergency escape and rescue (egress windows/doors). These requirements do not extend above the fourth floor, and do not specifically require windows. The City of Berkeley also do not require bedrooms or other rooms to have windows.

Maximum lot coverage standards have traditionally had the effect of making windows inevitable in Berkeley. When lot coverage maximums are removed, as is proposed for the Southside Area, there is a market incentive to create large blocks of units rather than more traditional “O” and “U” shaped configurations, which allow for ample windows, light, and air.

Requiring windows in living areas and bedrooms will ensure students and other residents aren’t subject to substandard living conditions.

Windows are required by many U.S. cities such as New York and Chicago, in part for fire department access on upper floors. Window openings must be large enough for a firefighter in uniform to fit through. Internal bedrooms are illegal in New York City because it was determined that living space without windows had negative effects on a person’s physical and mental health.

Under the proposed regulations for the Southside Area, where traditional limitations that de facto result in units with windows are effectively removed, windows opening to natural light and ventilation would be required for all bedrooms and for major living areas. Bathrooms, storage rooms, kitchens, and other spaces would be exempt from the window requirement to allow for floor plan flexibility. In the future, the Council may wish to extend similar requirements citywide, especially in the context of any similar changes in zoning.

Examples of light and ventilation requirements exist in other Cities and can be adapted for approval simultaneous with approval of Southside Area zoning amendments.

Proposed/Illustrative Terms for Southside Area Light and Ventilation Regulations:

Article xx.xx. Southside Area Residential Light and Ventilation

xx.xx Natural Light and Ventilation. Natural light and ventilation means direct light and ventilation from the outdoors. All units with habitable space shall be provided with natural light and ventilation in accordance with this Section. Openings that provide required natural light and ventilation to habitable space shall be operable windows and/or glazed doors.

xx.xx Minimum Opening. The minimum wall area with Natural Light and Ventilation shall be equal to 5 percent of the floor area of a unit’s habitable space. Every opening

providing required Natural Light and Ventilation shall include at least twelve (12) square feet of glazed area, providing a minimum of six (6) square feet of openable area.

xx.xx Distribution of Openings. For units with one or more bedrooms, each bedroom shall have at least one opening for Natural Light and Ventilation that meets Minimum Opening standards, except that one bedroom meeting the standards for Alcoves and Interior Rooms is allowed.

xx.xx Alcoves, Mezzanines, and interior rooms. Alcoves, mezzanines, and interior rooms within twenty (20) feet of the exterior wall are permitted if an openable area equal to 5 percent of the floor area of the alcove, mezzanine, or interior room is provided, opening to an adjacent space with Natural Light and Ventilation meeting the full Minimum Opening Standard. The openable area for an alcove, mezzanine or interior room may be satisfied by a partial wall, operable windows, glazed doors, or operable transom windows.

xx.xx Exemptions. The following spaces are exempt from Natural Light and Ventilation requirements, and openings meeting Natural Light and Ventilation Standards in these spaces do not count towards the Minimum Requirements: Bathrooms, storage rooms and closets, laundry rooms, office spaces of eighty (80) square feet or less, and kitchens.

This or a similar standard should be adopted concurrent with Southside Area zoning changes to ensure minimum standards for healthy, humane living conditions.

3. Require in some areas, and incentivize in other areas, Frontage Strips with wider sidewalks for our growing population, and to support vibrant retail districts, while increasing floorplates for housing on all upper stories.

While the Southside Area zoning changes provide an incentive structure for activated front setbacks, setbacks extend the entire building height and therefore reduce floor plates for housing on floors above. In addition, the proposed incentive structure counts quasi-public “sidewalk” space towards open space requirements, reducing the amount of open space provided within the building for the exclusive use of residents.

This alternative proposes requiring ground-floor Frontage Strips for all new buildings in the C-T and R-SMU zones in the Southside Area, zones with current and/or expected high pedestrian counts, and incentivizing ground floor Frontage Strips on other Southside Area Zones. Frontage Strips are only at ground level and allow upper story floorplates to extend over the Frontage Strip, maximizing upper story floorplates. In addition, this

alternative allows balconies and bays to encroach into the public right of way on upper floors, further increasing the potential size of upper story floorplates.

Sidewalk space is key for walkability, access for people with disabilities, successful retail, street trees and landscaping, shade, and for active—and therefore safe—public spaces. The Pandemic highlighted the need – and desire - for flexible pedestrian and outdoor space more emphatically than ever.

Implementing a Frontage Strip requirement in the C-T and R-SMU zones, which includes all of Telegraph Avenue and the retail-oriented portions of cross streets as well as adjacent blocks that carry the heaviest pedestrian loads, will ensure that, as demand for sidewalk space intensifies, room for pedestrians and active outdoor uses such a café tables, benches and landscaping is expanded.

The following example from Seattle illustrates the benefits of requiring and incentivizing ground floor retail setbacks – that do not impact the size of floorplates for housing. The following two photos are taken on the same street, about 50 feet apart. Even 30 additional inches of sidewalk space – the difference between these two photos - can make a significant difference to the pedestrian experience. Note that the housing above overhangs the Frontage Zone and is not reduced, and balconies extend over the public right of way.



Under these proposed regulations, creation of a Frontage Strip would be required in the Southside C-T and R-SMU zones and would be incentivized in other Southside Area Zones by expanding opportunities for bay windows and balconies on every floor above. The currently proposed incentive of counting Frontage areas towards “open space” would be removed in favor of an incentive that has the potential to expand useable floor area on all floorplates above 12 feet from street level and does not detract from open space dedicated to building residents.

Staff in the Planning Department has indicated their ability to bring these types of changes forward in a compressed timeline.

Illustrative Terms for Frontage Strips in Southside Area:

Article xx.xx Frontage Strips

xx.xx Purpose. To provide adequate space for increased numbers of pedestrians and facilitate walking as a safe, attractive, and comfortable travel mode. To increase the vibrancy and success of retail districts. To provide adequate space for trees and landscaping that provide shade, biodiversity, and reduction of urban heat gain.

xx.xx Definitions.

Frontage Strip. The area of private property between the ground floor building façade and the adjacent sidewalk in the public right of way.

xx.xx Requirements. All new buildings in the Southside Area C-T and R-SMU Zones are required to provide Frontage Strips meeting the requirements of this Section and may include Upper Floor Balconies and Bays. New Buildings in all other Southside Area zones may provide Frontage Strips meeting the requirements of this Section and, if a Frontage Strip is provided, may include Upper Floor Balconies and Bays in accordance with this Section.

xx.xx Upper Floor Balconies and Bays. In the Southside Area, new buildings with a Frontage Strip on the ground floor may encroach on the Public Right of Way through balconies or bays on all stories at least 12 feet above ground level.

xx.xx Depth. Frontage Strips must be at least four (4) feet in width. Bays and Balconies may encroach on the Public Right of Way to a maximum of three (3) feet, for up to 50% of the width of the building façade.

xx.xx *Uses.* Frontage Strips must be accessible to the sidewalk and may be used as sidewalk extensions or for benches or sidewalk café seating, building and store entrances, retail display, landscaping, pedestrian amenities, or other features that activate and enhance the pedestrian environment. Frontage Strips must be regularly maintained by the property owner. The City Manager may promulgate regulations for use and maintenance of Frontage Strips.

4. Requiring both Indoor and Outdoor Open Space

The suggestion of requiring both remains as proposed. With the significant added value conferred through upzoning, providing adequate indoor *and* outdoor open space should be considered as a small portion of land value recapture - that confers important benefits to residents.

5. Proactively Study and Implement Landmarking of Historic and Cultural Resources

Suggest including this as a referral, as proposed.

6. Require Inclusionary Affordable Units on Site

After consultation with Staff, it is likely this requirement would not be feasible to implement.

Finally, this Supplemental supports inclusion of Prevailing Wage requirements for projects in the Southside Area.