


REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: July 20, 2016

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations
Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No. 15-0002-S188
Assignment No. 16-06-0550

SUBJECT: Resolution (Martinez-Buscaino) to OPPOSE AB 2299 (Bloom), which would require local agencies to provide by ordinance the creation of second dwelling units.

CLA RECOMMENDATION: Adopt Resolution (Martinez-Buscaino) to include in the City's 2015-16 State Legislative Program OPPOSITION to AB 2299 (Bloom), which would *require* local agencies, including charter cities, to provide by ordinance for the creation of second dwelling units in single family and multifamily residential zones, and would prohibit cities from imposing parking requirements, and thereby undermine local land use control, the concept of 'Home Rule,' and potentially causing parking spillover impacts on nearby homes and businesses.

SUMMARY

On June 7, 2016 a Resolution (Martinez-Buscaino) was introduced in opposition to AB 2299 (Bloom), which would *require* local agencies to provide by ordinance for the creation of second dwelling units in single family and multifamily residential zones.

The Resolution indicates that the legislation differs from existing law (AB 1866, Government Code §65852.2 *et seq*), which gives local government *the authority* to enact a second dwelling unit ordinance *when needed*.

In addition, the Resolution seeks opposition to AB 2299 for the following reasons:

1. Eliminates parking requirements if the second dwelling unit is located within half a mile of public transit or shopping. AB 2299 also prohibits local governments from requiring more than one parking space per unit or bedroom.
2. Eliminates parking requirements if the second dwelling unit is located within an 'architecturally and historically significant historic district'. The Resolution notes that reducing parking requirements in the City's Historic Preservation Overlay Zones (HPOZs), could potentially impact a multitude of city neighborhoods, inasmuch as there are 30 existing HPOZs in the City, and 6 proposed new HPOZ many of which are located within close proximity to public transit.

League of California Cities letter:

In a letter dated April 13, 2016, the League of California Cities recommends opposition to AB 2299, for the following reasons:

1. Prohibits cities from imposing parking requirements if the second unit is located within a one-half mile of public transit or shopping, or in an architecturally and historically significant area. The letter notes that parking requirements should remain a local issue, and not be managed via State law.

2. Mandates that cities pass an second dwelling unit ordinance. As such, AB 2299 goes beyond the original intent of AB 1866, which provides cities the option to adopt an ordinance when needed, and that is sufficient. The League notes that a mandate is not warranted.

3. Cannot recoup fees charged for an application for a second dwelling, inasmuch as current law (AB 1866) limits the fees that can be charged for an application for a second unit to those incurred due to amendments made to State law in 2001-02. As such, any costs associated with amendments embedded in AB 2299 this year, those fees could not be recouped.

DEPARTMENTS NOTIFIED:

City Planning
City Attorney

Planning Department comments:

In a communication dated July 11, 2016, the Planning Department indicates that the City has long supported relaxing parking standards near public transit, and which is in line with good planning practice. The Department further notes that General Plan's Framework Element and the Mobility Element support the concept of parking relaxing near public transit.

In addition, the zoning code offers various mechanisms to reduce parking requirements for multi-family and commercial/mixed use project near public transit, but there are no reductions available for second dwelling units near transit.

Planning also notes that Zoning Administrator is allowed through a Conditional Use Permit (CUP) process to reduce parking requirements for designated historic building to accommodate commercial uses, inasmuch as the preservation of a historic site may require additional uses onsite, and thereby necessitate new parking spaces. The CUP process, however, is not available for second dwelling units.

The Planning Department, further notes that in cases where no parking space is practical or feasible, AB 2299 would prevent 'parking standards' from getting in the way of an additional unit of housing, inasmuch as the legislation if enacted into law, would not require homeowners to provide an extra parking space for a second dwelling unit that is located near public transit or in a historic district.

Planning further notes that it is factually true that AB 2299 would *require* local agencies to provide by ordinance for the creation of second units in single family and multi-family residential zones, when adoption of an ordinance is optional today, inasmuch as the text of the bill replaces the word 'may' with 'shall', they note that other sections of the legislation continue to provide a ministerial process for cities that have not adopted an ordinance to accept applications for second dwelling units. As such, the Planning Department indicates that AB 2299 reinforces the obligation for local agencies to ministerially consider second unit applications.

BILL STATUS:

2/18/16	Introduced
3/3/16	Referred to Committees on Housing & Community Development and Local Government.
6/2/16	Read third time. Passed. Ordered to Senate.
6/29/16	Re-referred to Committee on Appropriations.

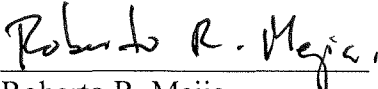
BACKGROUND

On June 28, 2016, the Planning & Land Use Management Committee approved a draft City Attorney prepared a draft ordinance for the purpose of complying with State law AB 1866 on Second Dwelling Units (Council File No. 14-0057-S8) as follows:

- 1) Repeals the existing sections of the Municipal Code that allow second dwelling unit by Conditional Use, and therefore the result will be that the State's ministerial development standards as contained in Government Code Section 65852.2(b)(1) would apply to approve second dwelling units.
- 2) Grandfathers second dwelling units approved or applied for in the City since June 23, 2003, which were approved in reliance of Zoning Administrator Memo 120, or upon the June 23, 2003 Inter-Departmental correspondence issued by the Planning Department and the Department of Building and Safety.
- 3) Includes an Urgency Clause, so that if adopted by the Council becomes effective upon publication. Ordinances containing an Urgency Clause require a 3/4 vote (12 members) of the Council in order to pass.

The City Attorney report noted that the proposed ordinance would repeal the City's existing second unit ordinance which approved second dwelling units via a Conditional Use Permit (Municipal Code Section 12.24 W 43 and 44). The result of the repeal would be that the State's default ministerial development standards would apply to the approval of second dwelling units.

The proposed ordinance would also 'grandfather' the Second Dwelling Unit (SDU) projects that have been permitted since 2003 by declaring them to be legal non-conforming uses if the permit otherwise complies with all State and local laws. These SDUs were approved in reliance of a Zoning Administrator Memo, Memo #120, or the June 23, 2003 Interdepartmental Correspondence issued by the Planning Department and the Department of Building and Safety which delineated the City's policy and practice regarding SDU's prior to the ZA Memo #120.


Roberto R. Mejia
Analyst

Attachments:

1. Resolution (Martinez-Buscaino)
2. AB 2299 (Bloom)
3. League of California Cities April 13, 2016 letter.
4. Communication from the Planning Department dated July 11, 2016.

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RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must first have been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, effective January 1, 2003 AB 1866 amended Government Code §65852.2 *et seq*), mandating ministerial consideration of the creation of second dwelling units by local governments with an Accessory Dwelling Unit ordinance; and

WHEREAS, the intent of AB 1866 is to encourage the creation of accessory dwelling units (ADUs), also known as 'second dwelling units' and 'granny flats,' in single family and multi-family residential zones, there are also detrimental land use and public utility impacts associated with their construction; and

WHEREAS, pending consideration in the Legislature is AB 2299 (Bloom), which would specify that a local agency may reduce or eliminate parking requirements for any second dwelling unit located within its jurisdiction by prohibiting the imposition of parking standards if the ADU is located half a mile of public transit, or located within an architecturally and historically significant historic district, potentially impacting parking in the City's Historic Preservation Overlay Zones (HPOZs) and many other neighborhoods Citywide that are close to public transit ; and

WHEREAS, AB 2299 *requires* local agencies to provide by ordinance for the creation of second dwelling units in single family and multifamily residential zones, thereby differing from existing law which gives local governments the *authority* to enact a second dwelling unit ordinance *when needed*; and;

WHEREAS, by *mandating* that cities enact a second dwelling unit ordinance, AB 2299 goes beyond the original intent of AB 1866 which provided local agencies the option to enact a second dwelling unit ordinance, and also eliminates parking requirements under certain circumstances, and thereby, undermining local land use control; and

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program OPPOSITION to AB 2299 (Bloom), which would require local agencies to provide by ordinance for the creation of second dwelling units in single family and multifamily residential zones, thereby differing from existing law, (AB 1866 Government Code §65852.2 *et seq*), which gives local governments the authority to enact a second dwelling unit ordinance when needed, and also under certain circumstances eliminates parking requirements in these zones, and thereby, undermining local land use control.

PRESENTED BY: Nury Martinez
NURY MARTINEZ
Councilwoman, 6th District

SECONDED BY: Joe Brown

ORIGINAL

7 2016

Office of the City Clerk, City of Los Angeles

This report was generated by the Council File Management System on 07/06/2016

Council File Number

15-0002-S188

Title

AB 2299 / Second Dwelling Units / Single Family and Multifamily Residential Zones

Last Change Date

06/07/2016

Expiration Date

06/07/2018

Pending in committee

Rules, Elections, Intergovernmental Relations and Neighborhoods Committee

Mover

NURY MARTINEZ

Second

JOE BUSCAINO

Action History for Council File 15-0002-S188

Date	Activity
06/07/2016	Resolution referred to Rules, Elections, Intergovernmental Relations and Neighborhoods Committee.

AMENDED IN ASSEMBLY APRIL 5, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2299

Introduced by Assembly Member Bloom

February 18, 2016

An act to amend Section 65852.2 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, as amended, Bloom. Land use: housing: 2nd units.

The Planning and Zoning Law authorizes the legislative body of a city or county to regulate, among other things, the intensity of land use, and also authorizes a local agency to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones, as specified.

This bill would, instead, require a local agency to provide by ordinance for the creation of 2nd units in these zones. ~~By~~ The bill would also specify that a local agency may reduce or eliminate parking requirements for any 2nd unit located within its jurisdiction.

Existing law also requires a local agency, if it has not adopted an ordinance governing 2nd units and receives an application for a permit for the creation of a 2nd unit, as provided, to grant a variance or special use permit if the 2nd unit complies with specified requirements, including specified zoning requirements generally applicable to residential construction in the zone in which the property is located.

This bill would prohibit a requirement for a passageway or pathway clear to the sky between the 2nd unit and a public street and, for a 2nd unit constructed above a garage located on an alley, for a setback of more than 5 feet from the side and rear lot. The bill would also provide

that a 2nd unit constructed above a garage or a garage converted in whole or in part into a 2nd unit is deemed to be an accessory building or accessory use that may be permitted within a required yard or setback area, provided that the 2nd unit is set back a minimum of 5 feet from the side and rear lot areas.

Existing law requires that parking requirements for 2nd units not exceed one parking space per unit or per bedroom. Under existing law, additional parking may be required provided that a finding is made that the additional parking requirements are directly related to the use of the 2nd unit and are consistent with existing neighborhood standards applicable to residential dwellings.

This bill would delete the above-described authorization for additional parking requirements. The bill would also provide that, when a garage, carport, or covered parking structure is demolished in conjunction with the construction of a 2nd unit and the local agency requires that those off-street parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the 2nd unit, as provided.

By increasing the duties of local officials, officials with respect to land use regulations, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65852.2 of the Government Code is
2 amended to read:
3 65852.2. (a) (1) A local agency shall, by ordinance, provide
4 for the creation of second units in single-family and multifamily
5 residential zones. The ordinance shall do all of the following:
6 (A) Designate areas within the jurisdiction of the local agency
7 where second units may be permitted. The designation of areas
8 may be based on criteria, that may include, but are not limited to,
9 the adequacy of water and sewer services and the impact of second
10 units on traffic flow.

1 (B) Impose standards on second units that include, but are not
2 limited to, parking, height, setback, lot coverage, *landscape*,
3 architectural review, maximum size of a unit, and standards that
4 prevent adverse impacts on any real property that is listed in the
5 California Register of Historic Places. However, notwithstanding
6 subdivision (d), a local agency shall not impose parking standards
7 for a second unit that is located within one-half mile of public
8 transit or shopping or is within an architecturally and historically
9 significant historic district.

10 (C) *Notwithstanding Subparagraph (B), a local agency may*
11 *reduce or eliminate parking requirements for any second unit*
12 *located within its jurisdiction.*

13 ~~(C)~~

14 (D) Provide that second units do not exceed the allowable
15 density for the lot upon which the second unit is located, and that
16 second units are a residential use that is consistent with the existing
17 general plan and zoning designation for the lot.

18 (2) The ordinance shall not be considered in the application of
19 any local ordinance, policy, or program to limit residential growth.

20 (3) When a local agency receives its first application on or after
21 July 1, 2003, for a permit pursuant to this subdivision, the
22 application shall be considered ministerially without discretionary
23 review or a hearing, notwithstanding Section 65901 or 65906 or
24 any local ordinance regulating the issuance of variances or special
25 use permits. A local agency may charge a fee to reimburse it for
26 costs that it incurs as a result of amendments to this paragraph
27 enacted during the 2001–02 Regular Session of the Legislature,
28 including the costs of adopting or amending any ordinance that
29 provides for the creation of second units.

30 (b) (1) When a local agency has not adopted an ordinance
31 governing second units in accordance with subdivision (a) receives
32 its first application on or after July 1, 1983, for a permit pursuant
33 to this subdivision, the local agency shall accept the application
34 and approve or disapprove the application ministerially without
35 discretionary review pursuant to this subdivision unless it adopts
36 an ordinance in accordance with subdivision (a) within 120 days
37 after receiving the application. Notwithstanding Section 65901 or
38 65906, every local agency shall grant a variance or special use
39 permit for the creation of a second unit if the second unit complies
40 with all of the following:

1 (A) The unit is not intended for sale and may be rented.

2 (B) The lot is zoned for single-family or multifamily use.

3 (C) The lot contains an existing single-family dwelling.

4 (D) The second unit is either attached to the existing dwelling
5 and located within the living area of the existing dwelling or
6 detached from the existing dwelling and located on the same lot
7 as the existing dwelling.

8 (E) The increased floor area of an attached second unit shall
9 not exceed 30 percent of the existing living area.

10 (F) The total area of floorspace for a detached second unit shall
11 not exceed 1,200 square feet.

12 (G) Requirements relating to height, setback, lot coverage,
13 architectural review, site plan review, fees, charges, and other
14 zoning requirements generally applicable to residential construction
15 in the zone in which the property is ~~located~~: *located, except as*
16 *follows:*

17 (i) *No passageway or pathway clear to the sky between the*
18 *second unit and a public street shall be required in conjunction*
19 *with the construction of a second unit.*

20 (ii) *No setback more than five feet from the side and rear lot*
21 *line shall be required for a second unit constructed above a garage*
22 *located on an alley.*

23 (H) Local building code requirements that apply to detached
24 dwellings, as appropriate.

25 (I) Approval by the local health officer where a private sewage
26 disposal system is being used, if required.

27 (2) No other local ordinance, policy, or regulation shall be the
28 basis for the denial of a building permit or a use permit under this
29 subdivision.

30 (3) This subdivision establishes the maximum standards that
31 local agencies shall use to evaluate proposed second units on lots
32 zoned for residential use that contain an existing single-family
33 dwelling. No additional standards, other than those provided in
34 this subdivision or subdivision (a), shall be utilized or imposed,
35 except that a local agency may require an applicant for a permit
36 issued pursuant to this subdivision to be an owner-occupant.

37 (4) No changes in zoning ordinances or other ordinances or any
38 changes in the general plan shall be required to implement this
39 subdivision. A local agency may amend its zoning ordinance or
40 general plan to incorporate the policies, procedures, or other

1 provisions applicable to the creation of second units if these
2 provisions are consistent with the limitations of this subdivision.

3 (5) A second unit that conforms to this subdivision shall *be*
4 *deemed to be an accessory use or an accessory building and shall*
5 not be considered to exceed the allowable density for the lot upon
6 which it is located, and shall be deemed to be a residential use that
7 is consistent with the existing general plan and zoning designations
8 for the lot. The second units shall not be considered in the
9 application of any local ordinance, policy, or program to limit
10 residential growth.

11 (c) A local agency may establish minimum and maximum unit
12 size requirements for both attached and detached second units. No
13 minimum or maximum size for a second unit, or size based upon
14 a percentage of the existing dwelling, shall be established by
15 ordinance for either attached or detached dwellings that does not
16 permit at least an efficiency unit to be constructed in compliance
17 with local development standards.

18 (d) (1) Parking requirements for second units shall not exceed
19 one parking space per unit or per bedroom. ~~Additional parking~~
20 ~~may be required provided that a finding is made that the additional~~
21 ~~parking requirements are directly related to the use of the second~~
22 ~~unit and are consistent with existing neighborhood standards~~
23 ~~applicable to existing dwellings.~~ Off-street parking shall be
24 permitted in setback areas in locations determined by the local
25 agency or through tandem parking, unless specific findings are
26 made that parking in setback areas or tandem parking is not feasible
27 based upon specific site or regional topographical or fire and life
28 safety conditions, or that it is not permitted anywhere else in the
29 jurisdiction.

30 (2) *When a garage, carport, or covered parking structure is*
31 *demolished in conjunction with the construction of a second unit,*
32 *and the local agency requires that those off-street parking spaces*
33 *be replaced, the replacement spaces may be located in any*
34 *configuration on the same lot as the second unit, including, but*
35 *not limited to, as covered spaces, uncovered spaces, or tandem*
36 *spaces, or by the use of mechanical automobile parking lifts.*

37 (e) Fees charged for the construction of second units shall be
38 determined in accordance with Chapter 5 (commencing with
39 Section 66000).

- 1 (f) This section does not limit the authority of local agencies to
2 adopt less restrictive requirements for the creation of second units.
- 3 (g) Local agencies shall submit a copy of the ordinances adopted
4 pursuant to subdivision (a) to the Department of Housing and
5 Community Development within 60 days after adoption.
- 6 (h) As used in this section, the following terms mean:
- 7 (1) "Living area," means the interior habitable area of a dwelling
8 unit including basements and attics but does not include a garage
9 or any accessory structure.
- 10 (2) "Local agency" means a city, county, or city and county,
11 whether general law or chartered.
- 12 (3) For purposes of this section, "neighborhood" has the same
13 meaning as set forth in Section 65589.5.
- 14 (4) "Second unit" means an attached or a detached residential
15 dwelling unit which provides complete independent living facilities
16 for one or more persons. It shall include permanent provisions for
17 living, sleeping, eating, cooking, and sanitation on the same parcel
18 as the single-family dwelling is situated. A second unit also
19 includes the following:
- 20 (A) An efficiency unit, as defined in Section 17958.1 of Health
21 and Safety Code.
- 22 (B) A manufactured home, as defined in Section 18007 of the
23 Health and Safety Code.
- 24 (i) Nothing in this section shall be construed to supersede or in
25 any way alter or lessen the effect or application of the California
26 Coastal Act (Division 20 (commencing with Section 30000) of
27 the Public Resources Code), except that the local government shall
28 not be required to hold public hearings for coastal development
29 permit applications for second units.
- 30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.

CURRENT BILL STATUS

MEASURE : A.B. No. 2299
AUTHOR(S) : Bloom.
TOPIC : Land use: housing: 2nd units.
HOUSE LOCATION : SEN
+LAST AMENDED DATE : 04/05/2016

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 06/29/2016
LAST HIST. ACTION : From committee: Do pass and re-refer to Com. on APPR.
(Ayes 4. Noes 0.) (June 29). Re-referred to Com. on
APPR.

COMM. LOCATION : SEN APPROPRIATIONS
HEARING DATE : 08/01/2016

TITLE : An act to amend Section 65852.2 of the Government Code,
relating to land use.

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 2299
AUTHOR : Bloom
TOPIC : Land use: housing: 2nd units.

TYPE OF BILL :

Active
Non-Urgency
Non-Appropriations
Majority Vote Required
State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY

2016

June 29 From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 0.) (June 29). Re-referred to Com. on APPR.
June 15 From committee: Do pass and re-refer to Com. on GOV. & F. (Ayes 7. Noes 0.) (June 14). Re-referred to Com. on GOV. & F.
June 9 Referred to Coms. on T. & H. and GOV. & F.
June 6 In Senate. Read first time. To Com. on RLS. for assignment.
June 2 Read third time. Passed. Ordered to the Senate. (Ayes 51. Noes 24. Page 5242.)
May 12 Read second time. Ordered to third reading.
May 11 From committee: Do pass. (Ayes 14. Noes 6.) (May 11).
Apr. 21 From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 2.) (April 20). Re-referred to Com. on APPR.
Apr. 13 From committee: Do pass and re-refer to Com. on L. GOV. (Ayes 5. Noes 2.) (April 13). Re-referred to Com. on L. GOV.
Apr. 7 Assembly Rule 56 suspended. (Page 4218.) (pending re-refer to Com. on L. GOV.)
Apr. 6 Re-referred to Com. on H. & C.D.
Apr. 5 From committee chair, with author's amendments: Amend, and re-refer to Com. on H. & C.D. Read second time and amended.
Mar. 3 Referred to Coms. on H. & C.D. and L. GOV.
Feb. 19 From printer. May be heard in committee March 20.
Feb. 18 Read first time. To print.



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April 13, 2016

The Honorable Richard Bloom
California State Assembly
State Capitol, Room 2003
Sacramento, CA 95814

**RE: AB 2299 (Bloom). Land Use: Housing: 2nd Units. (as introduced)
Notice of Opposition**

Dear Assembly Member Bloom:

The League of California Cities must respectfully oppose your AB 2299, which would require local agencies to provide by ordinance for the creation of 2nd units in single-family and multifamily residential zones. This is an unfortunate departure from current law, which gives local governments the authority to pass such an ordinance when needed and provides directions on how to proceed with applications for such units when no ordinance exists.

Parking requirements. AB 2299 prohibits cities from imposing parking standards if the 2nd unit is located within one-half mile of public transit or shopping or in an architecturally and historically significant area. This provision does not take into account any local realities or preferences. Parking requirements should remain a local issue and reflect community conditions. A state law that attempts to manage local parking requirements is bound to cause unintended consequences, including increasing future community opposition to 2nd units.

Mandate. AB 2299 mandates that cities pass an ordinance. This is a costly requirement for cities, as well as for the state. Current law, which provides an option for cities to adopt an ordinance when needed, is sufficient. At this time, we do not believe a mandate is warranted.

Cannot Recuparate Costs. Current law limits the fees that can be charged for an application for a 2nd unit to those incurred due to amendments made to state law in 2001-02. Therefore, cities will not be able to recoup their costs associated with amendments made to the law this year.

We look forward to talking to you and your staff about these concerns. If you have any questions regarding the League's position on this bill, please do not hesitate to contact me at (916) 658-8250.

Sincerely,

A handwritten signature in black ink that reads "Kendra Harris".

Kendra Harris
Legislative Representative

cc: Members and Chair, Assembly Local Government Committee
Debbie Michel, Principal Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus



Roberto Mejia <roberto.mejia@lacity.org>

AB 2299 motion

1 message

Claire Bowin <claire.bowin@lacity.org>
To: Roberto Mejia <roberto.mejia@lacity.org>
Cc: Matthew Glesne <matthew.glesne@lacity.org>

Mon, Jul 11, 2016 at 11:28 AM

Roberto

Thanks for letting DCP provide you text to assist you in preparing a response to the two motions introduced last June by Councilpersons Martinez and Buscaino in regards to SB 1069 and AB 2299.

Please see our suggested language attached.


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Thanks,

Claire

Claire Bowin, Senior City Planner
Policy Planning and Historic Resources Division
Citywide Section
City Hall, Room 272
213.978.1213

Please note my work schedule is five days/week

 **DCP comments on proposed resolution (1).docx**
16K

AB 2299 (Bloom) – Second Dwelling Unit (SDU)

Issues Raised in the Resolution

1. **Parking** – The resolution correctly states that AB 2299 would prohibit local jurisdictions from enacting parking standards for any SDU within a ½ mile of public transit or within a historic district.

Analysis: The general concept of relaxing parking standards near high quality public transit is something the City has long supported, in line with good planning practice. Required parking spaces act as a significant barrier to the City's overall land use strategy of directing growth to areas with existing transit and amenities. Excessive parking also often reduces the pedestrian experience and is simply not needed at the same level it may be in areas far from transit, where mobility options are limited. References to this parking policy can be found in the General Plan's Framework Element (Policy 5.8.3), Housing Element (Policy 18) and the Mobility Element (PK. 13). The zoning code offers various ways for multi-family and commercial/mixed-use projects to reduce parking requirements near transit. However, there are presently no reductions available for second dwelling units near transit.

Similarly, the City already recognizes the need for variations to parking requirements in historic district. Section 12.24 X.24 allows a Zoning Administer to reduce parking requirements for designated Historic Buildings to accommodate certain commercial uses. The idea is that the preservation of a historic site may require additional uses to take place, which would normally require new parking spaces. Historic sites are often constrained in their ability to accommodate new parking. The Conditional Use Permit process is not available for SDUs.

The bill would essentially allow a homeowner to decide whether an additional parking space is warranted, if located near transit or in a historic district. If enacted, it is likely that the currently required one extra parking space for an SDU will continue to be included in the majority of cases. This is because the extra parking space increases the marketability of the extra unit. However, in cases where no parking space is practical or feasible, the proposed Bill would essentially prevent parking standards from getting in the way of an additional unit of housing. This trade-off, while not ideal in every case, advances the City's planning priorities of removing reasonable barriers for second dwelling units in the pursuit of providing adequate housing for a growing population.

2. **SDU Ordinance Requirement** – The resolution states that AB 2299 *requires* local agencies to provide by ordinance for the creation of second units in single-family and multifamily residential zones, when adoption of such an ordinance is considered optional today.

Analysis: While true that the ordinance replaces the word "may" with "shall" in describing the creation of a local ordinance, another key part of the law that clearly contemplates and provides for cities without local ordinances remains untouched.

When a local agency has not adopted an ordinance governing second units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a

permit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to this subdivision unless it adopts an ordinance in accordance with subdivision (a) within 120 days after receiving the application.

Because the law clearly provides a process for local jurisdictions that have not adopted an ordinance in accordance with the state law, there does not appear to be a new mandate for local cities to adopt a local SDU ordinance. Regardless, AB 1866 stated and AB 2299 reinforces the obligation of agencies to ministerially consider second unit applications.