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LEGISLATIVE REVIEW COMMITTEE STAFF REPORT

Meeting: June 25, 2019

Subject

Consider adopting a position on SB 13 (Wieckowski) – Accessory Dwelling Units

Recommended Action

Adopt positions opposing Senate Bill 13 and authorize the Mayor to send a letter of opposition to the State Legislature

Summary

SB 13 makes a number of changes to law governing accessory dwelling units. Specifically,

- Deletes the requirement for an ADU ordinance to apply only in areas where housing is a permissible use.
- Expands the area in which an ADU can be built to include attached garages, storage areas, and accessory structures.
- Proves that when a garage, carport, or other covered parking structure is demolished or converted into an ADU, a local agency shall not require the off-street parking to be replaced.
- Reduced the application approval time for an ADU to 60 days.
- Removes the authority for a local ordinance to require an applicant for an ADU to be an owner occupant.
- Provides that a local ADU ordinance cannot establish a maximum ADU size less than 850 square feet for an ADU with one bedroom or less, or up to 1,000 square feet if the ADU provides more than one bedroom.
- Provides a tiered schedule of impact fees based on the size of ADUs, starting with no fees for an ADU less than 750 square feet and up to 25% of impact fees for a new single-family dwelling for ADUs larger than 750 square feet.
- If the Department of Housing and Community Development finds that a local ADU ordinance is not compliant with state law, provides the local agency with up to 30 days to respond to the findings. If the local agency does not amend its ordinance to comply with HCD's findings, or adopt a resolution disputing the findings, HCD may notify the Attorney General that the locality is in violation of state law.

- Authorizes a local agency to count an ADU for purpose of identifying adequate sites for its housing element.

The Legislature is considering additional ADU measures in the current session. Below is a chart of the major provisions of each measure. It is likely that all three bills will receive additional amendments, and may be amended into a single bill to comprehensively deal with ADUs.

	AB 68 (Ting) (6/12/19)	AB 881 (Bloom) (4/11/19)	SB 13 (Wieckowski) (5/17/19)
Ministerial approval	Requires ministerial approval of a permit for one ADU and one JADU per lot; one detached, new, single-story ADU that may be combined with a JADU; multiple ADUs within existing structures; up to two detached ADUs on a lot.	Requires ministerial approval of a permit for an ADU within an existing structure, as specified.	Requires ministerial approval of a permit for one ADU per lot, as specified.
Size requirements	Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 800 sq. ft. ADU and at least a 16-foot high ADU		Requires an ADU ordinance that establishes minimum or maximum size to allow at least an 850 sq. ft. ADU or 1,000 sq. ft. if more than one bedroom
Owner occupancy requirement	Prohibits owner occupancy requirement	Prohibits owner occupancy requirement until Jan. 1, 2025	Prohibits owner occupancy requirement
Impact fees			Provides for a tiered structure of fees based on size of ADU
Parking requirements related to demolition of off-street parking	Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.		Prohibits requirement of replacement parking when a garage, carport, or covered parking structure is demolished for, or converted to, an ADU.
Prohibition on parking requirements near ½ mile of transit		Specifies that the ½ mile shall be measured in walking distance and defines public transit as a bus stop, bus line,	

		light rail, street car, car share drop off or pickup, or heavy rail stop	
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Status

Passed the 34-2. Passed Assembly Housing and Community Development Committee 6-0 on 6/19. Referred to the Assembly Local Government Committee. Not yet scheduled for a hearing.

Support

According to the author, "California is in a severe housing crisis. The largest driver for this crisis is a lack of supply. One significant step to increase the supply of affordable housing is to build more ADUs. ADUs are inherently affordable: they cost less to build than a regular unit, are financed and managed by a homeowner, and require no public subsidy.

Under existing law, any property owner has the ability to a construct an ADU on their property should they meet certain zoning and building requirements. However, a significant number of homeowners interested in building ADUs on their property are prevented from constructing these units due to prohibitively high impact fees and other barriers. SB 13 is an important step in resolving the housing crisis by reducing excessive impact fees and other barriers for ADUs and allowing Californians to build affordable housing in their backyards."

Supporters of the measure include: Assn of Bay Area Governments, Bay Area Council, California Apartment Assn, California Assn of Realtors, California Building Industry Assn, California Chamber of Commerce, California Forward Action Fund, California YIMBY, Eden Housing, Long Beach Conservation Corps, Los Angeles Conservation Corps, Metropolitan Transportation Commission, San Jose Conservation Corps and Charter School, Santa Cruz YIMBY, Silicon Valley At Home, South Bay YIMBY, and Southern California Rental Housing Assn.

Opposition

In addition to the bill circumventing local ADU ordinances, the opponents to SB 13 contend that the bill completely disregards the Mitigation Fee Act (MFA), which strictly regulates how local agencies impose impact fees. Under the MFA, impact fees must be limited to the particular service and can only cover the cost of providing that service. Arbitrarily capping these fees would result in an inability to provide the public improvements and public services necessary to meet the needs of the residents living in the newly constructed ADU.

Nearly all of the organizations that have an Oppose Unless Amended position, are opposed to the provisions related to impact fees. If that section were to be removed, or

adequately amended, those organizations would likely move to a neutral position on the measure.

Opponents of the measure include: California Fire Chiefs Assn, California Special Districts Assn, Solano County Board of Supervisors, the Cities of Beaumont, Camarillo, Downey, El Segundo, San Dimas, San Marcos, Thousand Oaks, and numerous special districts.

Several organizations have an Oppose Unless Amended position, including: American Planning Assn – California Chapter, Assn of California Water Agencies, California Assn of Sanitation Agencies, California Municipal Utilities Assn, California State Assn of Counties, League of California Cities, Urban Counties of California, Ventura Council of Governments, and the Cities of Burbank, Garden Grove, Los Alamitos, Rancho Cucamonga, Torrance, and Vista.

Potential Impact

SB 13 would result in modifications to the manner in which ADUs are reviewed and approved in the City. The measure could result in an increased number of requests to build ADUs, particularly from properties that are not owner occupied. Additionally, this measure would remove some local discretion for ADUs that are built within an existing garage on lots with multifamily residences by requiring approval of ADUs up to a certain size and height. Depending upon the number of requests for permits of existing garages or other parking structures, this measure could result in increased pressures for on-street parking in neighborhoods.

Prepared by: Townsend Public Affairs