CITY OF CARSON

PLANNING COMMISSION STAFF REPORT

PUBLIC HEARING:	December 13, 2016
SUBJECT:	Conditional Use Permit No. 997-16
APPLICANT:	Richard Rodriguez 9662 Teal Avenue Garden Grove, CA 92844
REQUEST:	To approve an existing second dwelling unit located within the RS (Residential, Single-Family) zoning district.
PROPERTY INVOLVED:	2552 East Washington Street

COMMISSION ACTION

AYE	NO		AYE	NO	
		Chairman Diaz			**Mitoma**
		Vice-Chair Madrigal			**Pimentel**
		Andrews			**Post**
		Fe'esago, Jr.			**Thomas**
		Guidry			

Item No. 9-A

I. Introduction

Applicant/Property Owner:
Richard Rodriguez, 9662 Teal Avenue, Garden Grove, CA 92844

Project Address
2552 East Washington Street

Applicant's Request
The proposed project is for a conditional use permit approval for an existing second single-family dwelling in the RS (Residential, Single-Family) zone to bring into compliance with the Carson Municipal Code.

II. Background

Project Site and Surrounding Land Uses

The project site is located on the south side of Washington Street east of Alameda Street. The property consists of two legal lots that are tied for assessment purposes which also prevents selling the lots to different people. Each lot is 25 feet wide. The property was developed prior to the adoption of the Carson Municipal Code (CMC) in 1977. The property is therefore nonconforming with respect to several development standards which include lot size, unit size, setback requirements and off-street parking.

Site Information	
Existing General Plan Land Use Designation	Low Density Residential
Existing Zone District	RS (Residential, Single-Family)
Site Size	0.14 acres (5,335 square feet)
Present Use and Development	2 existing single-family dwellings
Surrounding Uses/Zoning	North: Residential, RS zoning South: Residential Multi-family, RM-25 zoning East: Residential, RS zoning West: Residential, RS zoning
Access	Ingress/Egress: E. Washington Street

Public Safety Issues
There are no open Code Enforcement cases on the subject property.

III. Analysis and Discussion

Uses

The site has two existing single family dwelling units. The main dwelling unit is 840 square-feet with a 400 square-foot 2-car garage and the second dwelling unit is 762 square-feet. The second dwelling unit is considered by the CMC legal non-conforming since it was legally permitted by the Los Angeles Department of Building and Safety in March 8, 1955 via a "Relocation" building permit (attached).

Nonconforming Density – Second Dwelling Units

CMC Section 9182.3 (Nonconforming Residential Density) states that the Planning Commission shall require as a condition precedent to the continued use of the property under the conditional use permit, that a report be submitted which shall provide and include plans to eliminate or mitigate any building, plumbing, electrical and fire code deficiencies. There were no serious health and safety concerns noted on the property inspection report.

Development Standards – Second Dwelling Units

According to CMC Section 9122.8 (Second Dwelling Units), the purpose and intent of second dwelling unit development standards (CMC Section 9125.6) is to increase the supply of smaller and affordable housing while ensuring that they remain compatible with the surrounding RS (Residential, Single-Family) neighborhoods. In addition, this section states:

> Existing lawfully established second dwelling units that do not meet the standards defined in CMC 9125.6 shall obtain a conditional use permit and be subject to the provisions of CMC 9182.3

CMC Section 9182.3 states that when approving a conditional use permit, the Planning Commission shall make findings regarding the adequacy of the on-site parking and applicable development standards contained in CMC Section 9125.6. Staff has prepared the following table to help consider the adequacy of applicable development standards:

Second Dwelling Unit Development Standards

	Standard	Proposal	Adequate
Lot Size	7,500 sf	5,335 sf	Yes, the small size of the units totaling The 1,602 square feet makes the lot size adequate in size for the two units.
Unit Size (Detached)	2-bd (700 sf)	2-bd (762 sf)	Yes, since the size of the main dwelling is 840 square feet, the 9% increase in the 2nd unit size is acceptable.
Building Setback	10 feet from main dwelling	12 feet	Yes, the building setback exceeds the standard.
Side Setback	5 ft	7 feet and 16 feet	Yes, the side setback exceeds the standard.
Rear Setback	15 ft	12 feet and 6 feet	Yes. Per CMC 9126.29 the rear unit meets the max 50% rear yard encroachment requirement
Parking	2 spaces within a garage	1 designated surface parking space and 60 ft driveway can accommodate 1 additional space in tandem	Yes, the main dwelling has 2 garage spaces. In addition, there is 1 designated space and enough space in the existing driveway to accommodate 1 tandem space.
Architectural Compatibility	Incorporates similar architectural features, materials and colors as the main dwelling	Incorporates similar architectural features, materials and colors as the main dwelling	Yes
Permanent Foundation	On foundation	On foundation	Yes
Owner Occupied	Either main residence or 2nd unit must be owner occupied	Neither main residence or 2nd unit will be owner occupied	N/A, see below
Resale and Deed Restriction	Deed Restriction on file with County Recorder as COA	Deed Restriction on file with County Recorder as COA	Yes

Issue - Owner Occupancy

Per Section 9125.6.J – Second Dwelling Unit Development Standards – of the Carson Municipal Code, either the main residence or second dwelling unit shall be occupied by owner of the property. At the May 11, 2010 Planning Commission meeting, The Planning Commission directed staff to eliminate the owner-occupied requirement.

Building, Plumbing, Electrical and Fire Code Deficiencies
There were no serious health and safety concerns noted on the property inspection report.

California Government Code - Second Units
On September 27, 2016, AB 2299 was approved by the Governor. AB 2299 amends Section 65852.2 of the Government Code related to second units which goes into effect on January 1, 2017. The amendment addresses a number of items including the following:

- Replaces the term "second unit with "accessory dwelling unit"
- Requires ministerial, nondiscretionary approval of accessory dwelling units
- Impose standards on accessory dwelling units that include, but are not limited to parking, height, setback, lot coverage, landscape, architectural review, maximum size of the unit
- Limits the maximum size of a detached accessory dwelling unit to 1,200 square feet
- Establishes a parking requirement for accessory dwelling units that shall not exceed one space per unit or bedroom. These spaces may be approved as tandem parking on an existing driveway.
- Existing ordinances regulating accessory dwelling units that do not meet these provisions on the effective date (January 1, 2017) are considered null and void.

In the coming weeks, staff will prepare zoning ordinance amendment that complies with these changes to the state law for Planning Commission's consideration.

Lot Merger
The property's parcel contains two lots and the "center lot line" traverses the existing houses. These two legal lots have been tied by the assessor's office to prevent selling the lots separately to different owners. Staff has determined that under this scenario, this 2nd unit is still considered legal non-conforming. To ensure the lots are not sold separately to different owners, the project has been conditioned to file a "lot-merger" application to merge the two lots into one parcel.

IV. Environmental Review

Pursuant to Section 15301 (a), Existing Facilities, the project is exempt from CEQA, since the project will not have a significant effect on the environment.

V. Public Notice

Notices were mailed to property owners within 500 feet by December 1, 2016.

VI. Recommendation

That the Planning Commission:

- **WAIVE** further reading and **ADOPT** Resolution No.____, "APPROVING CONDITIONAL USE PERMIT NO. 997-16 FOR A SECOND SINGLE FAMILY DWELLING UNIT IN THE RS (RESIDENTIAL, SINGLE-FAMILY) ZONE FOR PROPERTY LOCATED AT 2552 EAST WASHINGTON STREET and APN 7316-009-033."

VII. Exhibits

1. Draft Resolution
2. Zoning Map
3. Development plans
4. Assessor's Parcel Map (showing need for merger of lots)
5. Home Inspection Report
6. Building permits for second dwelling
7. Assembly Bill No. 2299

Prepared by: Peter Raktiprakorn, Assistant Planner

CITY OF CARSON

PLANNING COMMISSION

RESOLUTION NO. 16-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CARSON APPROVING CONDITIONAL USE PERMIT NO. 997-16 FOR AN EXISTING SECOND DWELLING UNIT FOR A PROPERTY LOCATED AT 2552 EAST WASHINGTON STREET

THE PLANNING COMMISSION OF THE CITY OF CARSON, CALIFORNIA, HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by the applicant, Richard Rodriguez, with respect to real property located at 2552 East Washington Street, and described in Exhibit "A" attached hereto, requesting the approval of an existing second dwelling unit located within the RS (Residential, Single-Family) zoning district. The main unit is 840-square-feet and is located in the rear of the property. The 762-square-foot second dwelling unit is located in the front of the property. The existing second dwelling unit was legally permitted prior to the adoption of Ordinance No. 03-1290 in 2003, which requires a conditional use permit for legal nonconforming second dwelling units that do not meet the development standards in Section 9125.6 of the Carson Municipal Code (CMC).

A public hearing was duly held on December 13, 2016, at 6:30 P.M. at City Hall, Helen Kawagoe Council Chambers, 701 East Carson Street, Carson, California. A notice of time, place and purpose of the aforesaid meeting was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid meeting.

Section 3. The Planning Commission finds that:

a) The existing second dwelling unit meets the goals and objectives of the General Plan and is consistent with applicable zoning and design regulations. The proposed project is identified in the Carson Municipal Code as a permitted use for this land use category subject to Conditional Use Permit approval. The surrounding properties are developed with residential single-family dwellings and the proposed project is compatible with the neighborhood.

b) The site is adequate in size, shape, topography, location, and utilities to accommodate the second dwelling unit. The property is legal nonconforming with respect to side yard setbacks, and off-street parking requirements, but is allowed to continue since the nonconformities were legally established and do not pose a health, safety or welfare concern. The second dwelling unit is compatible with existing development in the neighborhood.

c) The property will not generate or intensify nonconformities with the implementation of conditions of approval. The conditions of approval contained in Exhibit "B" of this Resolution restrict future expansions and/or additions to the site unless site development standards are met.

EXHIBIT NO. 1 -

d) The size, shape, and topography of the site are similar in nature to the other adjacent and surrounding residential properties with legal second dwelling units. The parking nonconformity is allowed to continue indefinitely with approval of the Conditional Use Permit.

e) The neighborhood is developed and adequate water supply and other utilities are provided.

f) The second dwelling unit generally conforms to all applicable design standards and guidelines that have been adopted pursuant to Section 9125.6, "Second Dwelling Unit Development Standards" of the Carson Municipal Code.

g) All of the required findings pursuant to Section 9171.21(d), "Conditional Use Permit, Approval Authority and Findings and Decision" can be made in the affirmative.

Section 4. The Planning Commission further finds that the second dwelling unit will not have a significant effect on the environment. The second dwelling unit will not alter the predominantly residential single-family character of the surrounding area and meets or exceeds all city standards for protection of the environment. Therefore, the proposed project is found to be categorically exempt under the California Environmental Quality Act (CEQA) Guidelines, Section 15301 (Existing Structures or Facilities).

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Conditional Use Permit No. 997-16 with respect to the property described in Section 1 hereof, subject to the conditions set forth in Exhibit "B" attached hereto.

Section 6. The Secretary shall certify to the adoption of the Resolution and shall transmit copies of the same to the applicant.

Section 7. This action shall become final and effective fifteen days after the adoption of this Resolution unless within such time an appeal is filed with the City Clerk in accordance with the provisions of the Carson Municipal Code.

PASSED, APPROVED AND ADOPTED THIS 13th DAY OF DECEMBER, 2016.

CHAIRMAN

ATTEST:

SECRETARY

PR/reso997-16 121316

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF CARSON, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 869 AND 870 OF TRACT NO. 6720, IN THE CITY OF CARSON, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 71, PAGES 79 AND 80 OF MAPS OF RECORDER, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: **7316-009-033**

Address: 2552 East Washington Street

CITY OF CARSON

DEVELOPMENT SERVICES

PLANNING DIVISION

EXHIBIT "B"

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT NO. 997-16

GENERAL CONDITIONS

1. If a building permit for Conditional Use Permit No. 997-16 is not used within one year of their effective date, said permits shall be declared null and void unless an extension of time is previously approved by the Planning Commission.

2. The approved Resolution, including the Conditions of Approval contained herein, and signed Affidavit of Acceptance, shall be copied in their entirety and placed directly onto a separate plan sheet behind the cover sheet of the development plans prior to Building and Safety plan check submittal. Said copies shall be included in all development plan submittals, including any revisions and the final working drawings.

3. The applicant shall submit two complete sets of plans that conform to all the Conditions of Approval to be reviewed and approved by the Planning Division within 90 days of receiving approval by the Planning Commission, if applicable.

4. The applicant shall comply with all city, county, state and federal regulations applicable to this project.

5. The applicant shall make any necessary site plan and design revisions to the site plan and elevations approved by the Planning Commission in order to comply with all the conditions of approval and applicable Zoning Ordinance provisions. Substantial revisions will require review and approval by the Planning Commission. Any revisions shall be approved by the Planning Division prior to Building and Safety plan check submittal.

6. The applicant and property owner shall sign an Affidavit of Acceptance form and submit the document to the Planning Division within 30 days of receipt of the Planning Commission Resolution.

7. Decision of the Planning Commission shall become effective and final 15 days after the date of its action unless an appeal is filed in accordance with Section 9173.4 of the Zoning Ordinance.

8. A modification of the conditions of this permit, including additions or deletions may be considered upon filing of an application by the owner of the subject

property or his/her authorized representative in accordance with Section 9173.1 of the Zoning Ordinance.

9. It is further made a condition of this approval that if any condition is violated or if any law, statute, or ordinance is violated, this permit may be revoked by the Planning Commission or City Council, as may be applicable; provided the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty days.

10. Precedence of Conditions. If any of the Conditions of Approval alter a commitment made by the applicant in another document, the conditions enumerated herein shall take precedence unless superseded by a Development agreement, which shall govern over any conflicting provisions of any other approval.

11. City Approvals. All approvals by City, unless otherwise specified shall be by the department head of the department requiring the condition. All agreements, covenants, easements, deposits and other documents required herein where City is a party shall be in a form approved by the City Attorney. The Developer shall pay the cost for review and approval of such agreements and deposit necessary funds pursuant to a deposit agreement.

12. The Indemnification. The Applicant shall defend, indemnify and hold harmless the City of Carson, its agents, officers, or employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void or annul, or in any way related to the approval of the City, its advisory agencies, appeal boards, or legislative body concerning Conditional Use Permit No. 997-16. The applicant shall provide a deposit in the amount of 100 percent of the City's estimate, in its sole and absolute discretion, of the cost of litigation, including the cost of any award of attorney's fees, and shall make additional deposits as requested by the City to keep the deposit at such level. The City may ask for further security in the form of a deed of trust to land of equivalent value. If the applicant fails to provide or maintain the deposit, the City may abandon the action and the applicant shall pay all costs resulting therefrom and the City shall have no liability to the applicant.

13. A property inspection report was prepared by a qualified/certified property inspector that includes plans to eliminate or mitigate any building, plumbing, electrical and fire code deficiencies. The deficiencies described in the inspection report shall be eliminated or mitigated within 120 days of this approval to the satisfaction of the Planning Division. An extension of time to complete necessary corrective measures may be granted for up to an additional 120 days, subject to the discretion of the Planning Division.

14. Per Carson Municipal Code Section 9125.6.8 (L)(1), the applicant shall submit a deed restriction stating that:
    a. The second dwelling unit shall not be sold separately;
    b. The second dwelling unit is restricted to the maximum size allowed per the conditional use permit;

c. Any expansion/addition of the secondary unit or primary unit is restricted unless site development requirements can be satisfied;
d. The garage cannot be used as a dwelling unit; and
e. The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall void the approval of the unit and may result in legal action against the property owner.

15. The deed restriction shall be reviewed and approved by the Planning Division and shall be recorded at the County Recorder's Office within 120 days after this approval. Proof of recordation shall be furnished to the Planning Division.
16. The driveway leading to the garage shall remain clear, except for automobiles, to facilitate automobile parking and access.
17. All exterior walls and exterior improvements must be consistent in using the same finishing materials and colors.

BUILDING & SAFETY

18. All building improvements shall comply with City of Carson Building and Safety Division requirements.

FIRE DEPARTMENT - COUNTY OF LOS ANGELES

19. All requirements by the Los Angeles County Fire Department shall be met.

20. There shall be no storage allowed within any required building setback yard area to promote fire safety.

ENGINEERING SERVICES

21. The proposed project will require the filing of "lot-merger" application for processing by the Public Works Engineering Division.

BUSINESS LICENSE DEPARTMENT - CITY OF CARSON

22. All parties involved in the subject project located at 2552 East Washington Street including to but not limited to contractors and subcontractors are required to obtain a city business license per Section 6310 of the Carson Municipal Code.

Subject Property and Vicinity Zoning

EXHIBIT NO. 2 -

7316	9 SHEET 1	P. A. 7316 - 9 & 10	TRA 1069 1153	REVISED 2005030706014001-26 2009102104026001-26	2012021602001001-26 2012100219005001-26 2012121112002001-26	20130129120088 01-26			SEARCH NO		OFFICE OF THE ASSESSOR COUNTY OF LOS ANGELES COPYRIGHT © 2002

EXHIBIT NO - 4

14

2013

MAPPING AND GIS SERVICES SCALE 1" = 60'

PG 2

50 WASHINGTON ST 50

N 89°57'E

TRACT NO 6720

872 871 870 869 868 867 866 865 864 863 862 861 860 859 858 857 856 855 854 853 852 851

13 33 10 9 8 7 6 5 4 34 1

AVE 50 1069 N 0°06'W

PG 10

PG 8

TRACT NO 71493

137.02 R=980 110.19 R=980 6.81

PVT DRWY

40201 SF 14446 * DRWY 25755 SF

SHEET 2

1372 926 927 POR 928 929 930 931 932 933 934 935 936 937 938 939

23 24 25 26 27 37 36

108.29 108.27 91.27 91.24 108.24 108.22 108.20 108.18 108.16 108.14 108.12 108.09 108.07 108.05 108.03 108.01 107.98

MB 71 79 80

MB 0.11 20.67 R=462 39.32 R=462 SEE DETAIL 211.23

#2190 12-7-50

HARBOR VIEW 1153

PG 10

83 CARSON ST 83

PG 13

BATAAN AVE

PG 11

DETAIL NO SCALE

20.67 R=462 0.11 39.32 R=462 CARSON ST

Date Printed: 1/22/2013 10:24:29 AM
Date Saved: 1/22/2013 10:24:17 AM

APPLICATION FOR BUILDING PERMIT

COUNTY OF LOS ANGELES
DEPARTMENT OF COUNTY ENGINEER
BUILDING AND SAFETY DIVISION
JOHN A. LAMBIE, County Engineer
COLEMAN W. JENKINS, Supt. of Building

FOR APPLICANT TO FILL IN
(Print or type only)

BUILDING ADDRESS 2554 Washington Long Beach
LOT NO 870 - 869 BLOCK
TRACT 6720
SIZE OF LOT 170 x 50' NO OF BLDGS NOW ON LOT 2
USE OF EXISTING BLDG Home
OWNER Terry Reaguer TEL NO 320-5493
ADDRESS 2326 Maricold Ave.
CITY Torrance Calif 90502
ARCHITECT OR ENGINEER TEL NO
ADDRESS
CONTRACTOR OWNER TEL NO 320-5493
ADDRESS 2326 MARICOLD LIC NO
CITY TORRANCE LIC CLASS
CONSTRUCTION LENDER NAME AND BRANCH
ADDRESS

SQ. FT. SIZE | NO. OF STORIES 1 | NO. OF FAMILIES 1

USE OF STRUCTURE Home

NEW ☐ ADD ☐ ALTER ☒ REPAIR ☐ DEMOL ☐

SIGNATURE OF APPLICANT Terry Reaguer

VALUATION $ $1,200.00

P.C. FEE $ | PMT FEE $ 11.50

I HEREBY ACKNOWLEDGE THAT I HAVE READ THIS APPLICATION AND STATE THAT THE ABOVE IS CORRECT AND AGREE TO COMPLY WITH ALL ORDINANCES AND LAWS REGULATING BUILDING CONSTRUCTION. I CERTIFY THAT IN DOING THE WORK AUTHORIZED HEREBY I WILL NOT EMPLOY ANY PERSON IN VIOLATION OF THE LABOR CODE OF THE STATE OF CALIFORNIA IN RELATION TO WORKMEN'S COMPENSATION INSURANCE.

SIGNATURE OF PERMITTEE Terry Reaguer
ADDRESS 2326 MARICOLD

ASSESSOR MAP BOOK | PAGE | PARCEL

BLDG NO ADDRESS 2554 E WASHINGTON
LOCALITY DEMING
NEAREST CROSS ST Alameda
DISTRICT NO 13 | ZONE I | TYPE CONS. II | ISSUED BY Thomas
STATISTICAL CLASSIFICATION CLASS NO 31 DWELLING UNITS — SEWER MAP BK 6 PG 60
USE ZONE R1 | MAP NO | SPECIAL CONDITIONS

BLDG SETBACK FROM FRONT PROP LINE OF ____ STREET

TYPE OF EXISTING STRUCTURE	SETBACK FROM C.L.	+	YARD	=	TOTAL
		+		=	

BLDG SETBACK FROM SIDE PROP LINE OF ____ STREET

TYPE OF EXISTING STRUCTURE	SETBACK FROM C.L.	+	YARD	=	TOTAL
		+		=	

CORNER CUTOFF YES ☐ NO ☐

SEE REVERSE SIDE FOR SPECIAL APPROVALS

APPROVALS	DATE	INSPECTOR'S SIGNATURE
FOUNDATION, LOCATION, FORMS, MATERIALS		
FRAME, FIRE STOPS, BRACING, BOLTS	12-1-61	
FURNACE, LOCATION, GAS VENT, DUCTS		
LATH INT.		
LATH EXT.		
HOUSE NUMBER CORRECT AND POSTED		
FINAL	12-1-61	

INSPECTOR COPY

JOHN F. LEWIS PRINCIPAL STRUCTURAL ENGINEER

PLAN CHECK VALIDATION CK NO CASH

PERMIT VALIDATION CK NO CASH

'61 234 48 NOV 27 1 8 1150 A

ORIGINAL BUILDING PERMIT FOR 2ND DWELLING UNIT.

EXHIBIT NO. 6 -

Assembly Bill No. 2299

CHAPTER 735

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

[Approved by Governor September 27, 2016. Filed with Secretary of State September 27, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2299, 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. Existing law authorizes the ordinance to designate areas within the jurisdiction of the local agency where 2nd units may be permitted, to impose specified standards on 2nd units, and to provide that 2nd units do not exceed allowable density and are a residential use, as specified.

This bill would replace the term "second unit" with "accessory dwelling unit." The bill would, instead, require the ordinance to include the elements described above and would also require the ordinance to require accessory dwelling units to comply with specified conditions. This bill would require ministerial, nondiscretionary approval of an accessory dwelling unit under an existing ordinance. The bill would also specify that a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

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.

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

This bill would incorporate additional changes in Section 65852.2 of the Government Code proposed by SB 1069 that would become operative only if SB 1069 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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.

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

SECTION 1. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(C) Notwithstanding subparagraph (B), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

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

(E) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

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

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

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

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of accessory dwelling units.

(4) Any existing ordinance governing the creation of accessory dwelling units by a local agency or any such ordinance adopted by a local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

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

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of accessory dwelling units if these provisions are consistent with the limitations of this subdivision.

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

(b) When a local agency that has not adopted an ordinance governing accessory dwelling 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 subdivision (a) within 120 days after receiving the application.

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

(d) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000).

(e) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of accessory dwelling units, provided those requirements comply with subdivision (a).

(f) Local agencies shall submit a copy of the ordinances adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(g) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(C) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(h) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

SEC. 1.5. Section 65852.2 of the Government Code is amended to read:

65852.2. (a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in single-family and multifamily residential zones. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on criteria, that may include, but are not limited to, the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, lot coverage, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Places.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The unit is not intended for sale separate from the primary residence and may be rented.

(ii) The lot is zoned for single-family or multifamily use and contains an existing, single-family dwelling.

(iii) The accessory dwelling unit is either attached to the existing dwelling or located within the living area of the existing dwelling or detached from the existing dwelling and located on the same lot as the existing dwelling.

(iv) The increased floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing living area, with a maximum increase in floor area of 1,200 square feet.

(v) The total area of floorspace for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing garage that is converted to a accessory dwelling unit, and a setback of no more than five feet from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

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

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per unit or per bedroom. These spaces may be provided as tandem parking on an existing driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions, or that it is not permitted anywhere else in the jurisdiction.

(III) This clause shall not apply to a unit that is described in subdivision (d).

(xi) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, and the local agency requires that those offstreet parking spaces be replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d).

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

(3) When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application shall be considered ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, within 120 days after receiving the application. A local agency may charge a fee to reimburse it for costs that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a

local agency subsequent to the effective date of the act adding this paragraph shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. In the event that a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void upon the effective date of the act adding this paragraph and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

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

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot zoned for residential use that contains an existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be utilized or imposed, except that a local agency may require an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

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

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives its first application on or after July 1, 1983, for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall accept the application and approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a) within 120 days after receiving the application.

(c) A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum or maximum size for an accessory dwelling unit, or size based upon a percentage of the existing dwelling, shall be established by ordinance for either attached or detached dwellings that does not permit at least an efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the existing primary residence or an existing accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit to create within a single-family residential zone one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) Accessory dwelling units shall not be considered new residential uses for the purposes of calculating local agency connection fees or capacity charges for utilities, including water and sewer service.

(A) For an accessory dwelling unit described in subdivision (e), a local agency shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge.

(B) For an accessory dwelling unit that is not described in subdivision (e), a local agency may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its size or the number of its plumbing fixtures, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) Local agencies shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption.

(i) As used in this section, the following terms mean:

(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.

(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.

(4) "Accessory dwelling unit" means an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit, as defined in Section 17958.1 of Health and Safety Code.

(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.

(5) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(j) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65852.2 of the Government Code proposed by both this bill and Senate Bill 1069. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, (2) each bill amends Section 65852.2 of the Government Code, and (3) this bill is enacted after Senate Bill 1069, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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