

COUNTY OF SANTA BARBARA LEGISLATIVE ANALYSIS FORM

This form is required for the Legislative Program Committee to consider taking an advocacy position on an issue or legislative item.

BILL NUMBER: AB 2522	AUTHOR: Bloom
INTRO/AMEND DATE: February 19, 2016	AUTHOR'S POLITICAL PARTY: Democrat
BILL STATUS: Asm Housing and Community Development	

1) BILL SUBJECT:

Affordable Housing, Attached Housing Developments, Housing Element

2) FROM DEPARTMENT:

Planning & Development

3) IS THIS ITEM SPECIFICALLY REFERENCED IN THE LEGISLATIVE PLATFORM?

No

4) WHICH POLICY-RELATED MATTER IS OF CONCERN WITH THIS BILL?

Land use, specifically the creation of affordable housing

5) HOW WOULD THIS BILL IMPACT THE COUNTY? (Current practices, responsibility, authority, pros/cons, affected programs and/or services, etc.)

This bill would allow for the construction of affordable attached housing developments by right on land identified as part of the inventory in the Housing Element or on land that is proposed to be rezoned or has been rezoned under the County's housing program. Little or no discretionary or CEQA review would be allowed. For example, this would allow the recently rezoned housing opportunity sites in the Eastern Goleta Valley to be developed by right.

- | | | | |
|-------------------------------------|---|--------------------------------|-------------------------------|
| 6) IMPACT ON COUNTY PROGRAM: | <input checked="" type="checkbox"/> Major | <input type="checkbox"/> Minor | <input type="checkbox"/> None |
| SANTA BARBARA COUNTY IMPACT: | <input checked="" type="checkbox"/> Major | <input type="checkbox"/> Minor | <input type="checkbox"/> None |
| STATEWIDE IMPACT: | <input checked="" type="checkbox"/> Major | <input type="checkbox"/> Minor | <input type="checkbox"/> None |

Explanation of Impacts:

This bill would decrease in a major way the ability of jurisdictions to conduct discretionary review of proposed attached affordable housing developments.

7) WOULD THIS BILL IMPACT:

- | | | |
|---|---|--|
| a. Efficient service delivery and operations? | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| b. Fiscal stability? | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| c. Inter-agency cooperation? | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| d. Local control? | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO |
| e. Protection of safety net services? | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| f. Community sustainability/economic stability? | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

Additional Comments:

This is a big impact to local control by taking away our ability to do discretionary review on attached housing projects.



COUNTY OF SANTA BARBARA

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8) FISCAL IMPACT ON THE COUNTY:

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> Revenue Increase | <input type="checkbox"/> Revenue Decrease | <input checked="" type="checkbox"/> Unfunded Mandate |
| <input type="checkbox"/> Cost Increase | <input type="checkbox"/> Cost Decrease | <input type="checkbox"/> Undetermined |
| <input type="checkbox"/> None | | |

Additional Comments:

There may be a revenue increase from property taxes on new attached housing projects.

9) OTHER AGENCIES THAT SHOULD REVIEW THIS BILL:

Please list other agencies below:

10) CSAC POSITION ON BILL:

- | | | |
|--|---|---|
| <input type="checkbox"/> Support | <input type="checkbox"/> Oppose | <input type="checkbox"/> Support if Amended |
| <input type="checkbox"/> Oppose unless Amended | <input checked="" type="checkbox"/> Watch | <input type="checkbox"/> No position taken |

11) OTHER LOCAL OR STATEWIDE ORGANIZATIONS THAT HAVE TAKEN A POSITION ON THIS BILL:

(Indicate support or opposition for each)

12) PROPOSED AMENDMENTS: (Attach separate sheet)

13) RECOMMENDATION:

- | | | |
|--|--|---|
| <input type="checkbox"/> Active Support* | <input type="checkbox"/> Passive Support | <input type="checkbox"/> Support if Amended* |
| <input checked="" type="checkbox"/> Active Opposition* | <input type="checkbox"/> Passive Opposition | <input type="checkbox"/> Oppose unless Amended* |
| <input type="checkbox"/> Watch | <input type="checkbox"/> Concerns (Why? Explain in #6) | <input type="checkbox"/> No Position (Why?) |
| <input type="checkbox"/> No Change since Last Position | | |

* Indicates that the department believes that the Board of Supervisors should take a formal position on this bill

Additional Comments:

14) LEGISLATIVE ANALYSIS FORM PREPARED BY: Glenn Russell

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Date of Hearing: April 13, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2522 (Bloom) – As Amended April 5, 2016

SUBJECT: Land use: attached housing developments

SUMMARY: Allows an attached housing development to be permitted as a "use by right" provided that it meets specified requirements. Specifically, **this bill:**

- 1) Defines "use by right" to mean that a local government's review of the owner-occupied or multi-family residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or constitute a "project" for the purposes of the California Environmental Quality Act (CEQA). Requires any subdivision of sites are subject to all laws including but not limited to the local Subdivision Map Act. Use by right does not exempt the use from design review. Design review does not constitute a "project" for purposes of CEQA.
- 2) Defines "attached housing development" to mean:
 - a) A newly constructed or substantially rehabilitated structure containing two or more dwelling units that is a "housing development project;"
 - b) "Housing development project" means a use consistent with any of the following:
 - i. Residential use only;
 - ii. Mixed use developments consisting of residential and nonresidential in which the nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are more than two floors. Neighborhood commercial means small-scale general or special stores that provide goods primarily to the surrounding community; or
 - iii. Transitional or supportive housing.
 - c) Does not include a second unit; and
 - d) Does not include a condominium conversion.
- 3) Requires the attached housing development to include housing for very low, low-, or moderate-income households as follows:
 - a) At least 20% of the total units must be sold or rented to lower income households making 80% of the area median income (AMI) or below; or
 - b) 100% of the units must be sold or rented to moderate income households, making between 80% to 120% of AMI or middle income households making 150% of AMI or below; and

- c) Replacement of all rental units that existed on the site where the attached housing development is constructed in the last five years that were:
 - a. Occupied by very low- or low-income households;
 - b. Restricted by a covenant or law to very low- or low-income rents;
 - c. Subject to rent control if the occupants were moderate, low- or very low-income.
- 4) Requires the attached housing development to either:
 - a) Satisfy existing exemptions within the California Environmental Quality Act (CEQA) for farmworker housing, low income housing developments, and infill sites with 100 housing units or less; or
 - b) Requires the attached housing development to:
 - i. Be located on a site that is included in the jurisdiction's housing element inventory of residential land suitable for development; or
 - ii. Be located on a site that has been or will be rezoned as required by the jurisdiction's housing element and either the rezoning has been complete or three years has passed following the date that the jurisdiction's housing element was adopted unless an extension to four years is granted because most of the rezoning was completed within the previous three years; and
 - iii. Provides that the attached housing development cannot contain more dwelling units than were projected by the jurisdiction in the housing element as well as any density bonus units that the development is eligible for; and
 - iv. Requires the attached housing development must comply with applicable general plan and zoning standards and criteria, including but not limited to design standards in effect when the attached housing development is determined to be complete; and
 - v. Requires the attached housing development to either be in an "urbanized area" or "infill site."
- 5) Defines an "urbanized area" to mean:
 - a) An incorporated city with a population of at least 100,000 or an incorporated city with a population of less than 100,000 if no more than two neighboring incorporated cities have a population of at least 100,000; or
 - b) An unincorporated area that is either completely surrounded by one or more incorporated cities and the population of the incorporated area and the population of the surrounding incorporated city or cities is not less than 100,000 and the population density of the incorporated area is at least equal to the population density of the surrounding city or cities OR an unincorporated area that is located within urban growth boundary and has an existing residential population of at least 5,000 persons per square mile; or

- c) In an census-defined place with a population density of at least 5,000 persons per square mile; or
 - d) If the development is 50 units or less within an incorporated city with a population density of at least 2,500 persons per square mile and total population of at least 25,000.
- 6) Defines an "infill site" to mean a site in an urbanized area where either:
- a) The site has not been previously developed for urban uses and both of the following apply: the site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses AND no parcel in the site has been built on within the past 10 years unless the parcel was built on as result of a redevelopment agencies plan, or
 - b) The site was previously developed for qualified urban uses.
- 7) Applies to all cities and counties including charter cities because the Legislature finds that the lack of affordable housing is of vital statewide importance and thus a statewide concern.
- 8) Operates independently of a jurisdictions obligation to identify multifamily sites developable by right in its housing element.
- 9) Provides that the exemptions in this bill do not apply to the Coastal Commission Act.
- 10) Provides that an applicant or public agency must comply with the Subdivision Map Act.
- 11) Provides that no reimbursement is required pursuant to Section 6 of Article XIII B of the California Constitution.

EXISTING LAW:

- 1) Defines "use by right" to mean that a local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or constitute a "project" for the purposes of the California Environmental Quality Act (CEQA) Requires any subdivision of the sites are subject to all laws including but not limited to the local Subdivision Map Act. Use by right does not exempt the use from design review. Design review does not constitute a "project" for purposes of CEQA.
- 2) The Housing Accountability Act defines housing for very low, low-, or moderate-income households to mean either:
 - a) At least 20% of the total units in a development must be sold or rented to lower income households at 80% of AMI or below (as defined in Section 50079.5 of the Health and Safety Code); or
 - b) 100% of the units in a development must be sold or rented to persons and families of moderate income between 80% to 120% of AMI (as defined in Section 50093 of the

Health and Safety Code) or to persons and families of middle income at up to 150% of AMI. (Government Code Section 65589.5)

- 3) The Housing Accountability Act provides that:
- a) Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30% of 60% of AMI with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based.
 - b) Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30% of 100% of AMI with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

FISCAL EFFECT: Unknown.

COMMENTS:

Background: California is facing a housing affordability crisis on many fronts. According to the Public Policy Institute of California (PPIC), as of February 2015, roughly 36% of mortgaged homeowners and approximately 48% of all renters are spending more than one-third of their household incomes on housing. California continues to have the second lowest homeownership rate in the nation and the Los Angeles metropolitan area is now a majority renter region. In fact, five of the eight lowest homeownership rates in the nation are in California metropolitan areas. California has 12% of the United States population, but 20% of its homeless population – 63% of these homeless Californians are unsheltered (the highest rate in the nation). At any given time, 134,000 Californians are homeless. California has 24% of the nation's homeless veterans and one-third of the nation's chronically homeless. The state also has the largest numbers of unaccompanied homeless children and youth, with 30% of the national total.

By right proposal: This bill would exempt a housing development that includes either 20% low-income units or 100% moderate income units and middle income units from a conditional use permit, a planned unit development permit or project level CEQA review. In order to qualify, a housing development would need to be on a site designated by the local government in its housing element, be located in an urbanized area, and be consistent with the adopted General Plan, written zoning, and design criteria. In order to qualify for by right, the number of units in a development could not exceed the number of units that the local government had designated for the site in its housing element plus any increased density a developers receives as part of a density bonus.

The project would be exempt from a project level CEQA review; however it would be subject to environmental review as part of the housing element review and adoption process. Public review is also required when a local government adopts design requirement, its General Plan, and zoning. A development that is approved by right pursuant to this bill would be subject to those reviews.

A housing development could not qualify for use by right if it removes existing housing units that are affordable to low income families or are subject to rent control unless replacement units are included in the development in equal proportion.

Purpose of this bill: According to the author, "AB 2522 amends Government Code Section 65589.4 to focus on building affordable and workforce housing through a market-rate solution, and to address continued strong local opposition to housing at the local level through the CEQA process. This bill is also designed to avoid further modification to or additional requirements on the housing element itself as they will have minimal positive effect on the amount of housing produced in the state. AB 2522 would require by right approval by cities and counties of any market rate multi-family rental housing project that includes at least 20% low income housing or 100% moderate income housing. The by right approval would apply to attached housing projects proposed for sites already designated by the city or county in the housing element for housing, in urban areas, and subject to consistency with written up-front General Plan, zoning and design criteria. By right approval is completed without any discretionary approval, eliminating the need for CEQA review, and is already required on any housing element sites where rezoning was required. However, public review is still required to establish design guidelines and the zoning, and subdivisions remain subject to CEQA. Substantial public review, comment and CEQA are also required during the housing element review and adoption process."

Arguments in support: According to the sponsor, the American Planning Association, California Chapter, AB 2522 is designed to get more affordable and market rate housing built by, providing greater certainty to developers who will know well before submitting a project application what is required to receive the by right approval through written, upfront General Plan, zoning and design criteria. AB 2522 respects local planning for housing because the sites where the housing would be approved by right have already been designated as housing sites in the housing element by the city or county itself, and the project must also comply with written and adopted General Plan, zoning and design criteria developed and approved by the local agency. Encourages public engagement early in the process by shifting local engagement and participation away from CEQA review at the time of project approval, the public can engage much earlier in the process during approval and adoption of the General Plan, housing element, zoning and design criteria. AB 2522 provides a clear and concrete solution that encourages the production of housing rather than additional paperwork: Additional requirements for the housing element have been passed by the Legislature nearly every year for 20 years – these requirements have not prevented a severe housing shortage. Further detailed requirements for housing elements will have minimal positive effects on the amount of housing produced in the state. The emphasis now must be on increasing the production of housing at all affordability levels.

Arguments in opposition: According to the League of California Cities, "when a city prepares its housing element it does its best to identify sites that accommodate its share of the RHNA. However, a detailed engineering, environmental analysis is not completed when the housing element is prepared. This means that the maximum number of units may not be able to be accommodated on a particular site because of engineering and environmental issues that are discovered as part of the review of a housing development. By right approval of the maximum units does not allow a city to analyze whether the site can accommodate the number of units. The bill requires continued affordability for 30 years. The density bonus law requires continued affordability for 55 years. The League has always supported 55 years requirements to ensure continued affordability and availability.

Staff comments:

The committee may wish to consider the following amendments to exempt jurisdictions who are successfully building affordable housing from the provisions of this bill. In the most recently completed RNHA cycle, local governments that exceed 60% of their total RHNA for all income

levels and exceed 40% of the RNHA for very low- and low-income levels combined would have the option of opting out of the requirements of the bill. Local governments would be required to make a finding that they have met these thresholds and would be required to notify HCD on their housing element annual report that they opted-out.

This act shall not apply to a city, county, or a city and county in the last RNHA cycle exceeded 60% of the total regional housing needs in all income levels and exceeded 40% of the combined RHNA for very-low- and low-income. A city, county or city and county shall make a finding annually to maintain this exemption.

The committee may wish to consider the following amendments to ensure that the maximum numbers of affordable units are constructed and that the housing is deed restricted for 55-years for very low- and low- and 45 years for moderate income.

Amend 65589.4 (b) as follows:

(b) The attached housing development provides both of the following:

(1) "Housing for very low, low or moderate income households" as defined in paragraph (3) of subdivision (h) of Section 65589.5; and or

(2) Replacement housing units as required by paragraph (3) of subdivision (c) of Section 65915, whichever provides the greater amount of lower income housing.

The jurisdiction shall require the developer of the attached housing development to provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low- and low-income households for a period of at least 55 years and for moderate-income households for a period of at least 45 years.

Technical amendment:

Page 3, line 22, delete "element" and replace with "development"

Double referred: If AB 2522 passes this committee, the bill will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

American Planning Association, California Chapter (sponsor)
California Apartment Association
California Association of Realtors
California Building Industry Association
California Housing Consortium

Opposition

City of Lakeport
City of Torrance
Council of Community Housing Organizations

League of California Cities

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085, Lisa Engel / H. & C.D. / (961) 319-2085

AMENDED IN ASSEMBLY APRIL 5, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2522

Introduced by Assembly Member Bloom

February 19, 2016

An act to amend Section 65589.4 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2522, as amended, Bloom. Land use: attached housing developments.

Existing law requires an attached housing development to be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if at least certain percentages of the units are available at affordable housing costs to very low income, lower income, and moderate-income households for at least 30 years, and if the project meets specified conditions relating to location, being subject to a discretionary decision other than a conditional use permit, and a negative or mitigated negative declaration having been adopted for the project under the California Environmental Quality Act.

This bill would instead require an attached housing development to be a permitted use by right, as defined, *and subject to the existing conditions imposed on a use by right*, if it satisfies the same specified conditions as to location and other conditions requiring location on property that is part of the jurisdiction's residential inventory or that has been or will be rezoned under the jurisdiction's housing program. This bill would also condition the permitted use by right upon the

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— 2 —

development not having more units than projected for the location and upon compliance with general plan and zoning standards and criteria. *complying with written development standards appropriate to meeting the jurisdiction's share of the regional housing needs and providing housing for very low, low-, or moderate-income households and replacement housing units.* By imposing new duties upon local agencies with respect to housing developments, 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 65589.4 of the Government Code is
- 2 amended to read:
- 3 65589.4. (a) An attached housing development shall be a
- 4 permitted use by ~~right~~, *right* as defined in subdivision (i) of Section
- 5 ~~65583.2~~, *65583.2 and shall be subject to that subdivision* if it
- 6 satisfies the requirements of subdivision (b) and either of the
- 7 following:
- 8 (1) The attached housing development satisfies the criteria of
- 9 Section 21159.22, 21159.23, or 21159.24 of the Public Resources
- 10 Code.
- 11 (2) The attached housing development meets all of the following
- 12 criteria:
- 13 (A) The attached housing development is either:
- 14 (i) Located on a site that is identified in the jurisdiction's
- 15 inventory of land suitable for residential development described
- 16 in paragraph (3) of subdivision (a) of Section 65583.
- 17 (ii) Located on a site that has been or will be rezoned pursuant
- 18 to the program identified in the jurisdiction's housing element, as
- 19 required by *paragraph (1) of* subdivision (c) of Section 65583,
- 20 and either the rezoning has been completed or three years have
- 21 passed following the date that the jurisdiction's housing element

1 ~~was adopted.~~ *adopted, unless the deadline for the rezoning has*
2 *been extended pursuant to subdivision (f) of Section 65583.*

3 (B) The attached housing development does not contain more
4 dwelling units than were projected by the jurisdiction to be
5 accommodated on the sites described in subparagraph (A) ~~of~~
6 ~~paragraph (2) of subdivision (a)~~ plus any density bonus units for
7 which the development is eligible pursuant to Section 65915.

8 ~~(C) The attached housing development complies with applicable~~
9 ~~general plan and zoning standards and criteria, including, but not~~
10 ~~limited to, design standards, in effect when the attached housing~~
11 ~~development was determined to be complete.~~

12 (C) *The attached housing development complies with objective,*
13 *quantifiable, written development standards, conditions, and*
14 *policies appropriate to, and consistent with, meeting the*
15 *jurisdiction's share of the regional housing need, except that an*
16 *attached housing development shall not be deemed to be*
17 *inconsistent with the zoning for the site if the rezoning described*
18 *in paragraph (1) of subdivision (c) of Section 65583 has not been*
19 *completed for that site three years after the date that the housing*
20 *element was adopted, unless the deadline for the rezoning has*
21 *been extended pursuant to subdivision (f) of Section 65583.*

22 (D) The attached housing element is either:

23 (i) Located in an urbanized area as defined in Section 21071 of
24 the Public Resources Code or within a census-defined place with
25 a population density of at least 5,000 persons per square mile or,
26 if the attached housing development consists of 50 or fewer units,
27 within an incorporated city with a population density of at least
28 2,500 persons per square mile and a total population of at least
29 25,000 persons.

30 (ii) Located on an infill site as defined in Section 21061.3 of
31 the Public Resources Code.

32 ~~(b) At least 10 percent of the units of the attached housing~~
33 ~~development shall be available at affordable housing cost to very~~
34 ~~low income households, as defined in Section 50105 of the Health~~
35 ~~and Safety Code, or at least 20 percent of the units of the attached~~
36 ~~housing development shall be available at affordable housing cost~~
37 ~~to lower income households, as defined in Section 50079.5 of the~~
38 ~~Health and Safety Code, or at least 50 percent of the units of the~~
39 ~~attached housing development available at affordable housing cost~~
40 ~~to moderate-income households, consistent with Section 50052.5~~

1 of the Health and Safety Code. The jurisdiction shall require the
2 developer of the attached housing development to provide sufficient
3 legal commitments to the local agency to ensure the continued
4 availability and use of the housing units for very low, low-, or
5 moderate-income households for a period of at least 30 years.

6 (b) *The attached housing development provides both of the*
7 *following:*

8 (1) *“Housing for very low, low-, or moderate-income*
9 *households” as defined in paragraph (3) of subdivision (h) of*
10 *Section 65589.5.*

11 (2) *Replacement housing units as required by paragraph (3) of*
12 *subdivision (c) of Section 65915.*

13 (c) The provisions of this section are independent of any
14 obligation of a jurisdiction pursuant to subdivision (c) of Section
15 65583 to identify multifamily sites developable by right.

16 (d) This section does not apply to the issuance of coastal
17 development permits pursuant to the California Coastal Act
18 (Division 20 (commencing with Section 30000) of the Public
19 Resources Code).

20 (e) This section does not relieve an applicant or public agency
21 from complying with the Subdivision Map Act (Division 2
22 (commencing with Section 66410)).

23 (f) This section is applicable to all cities and counties, including
24 charter cities, because the Legislature finds that the lack of
25 affordable housing is of vital statewide importance, and thus a
26 matter of statewide concern.

27 (g) For purposes of this section, “attached housing development”
28 means a newly constructed or substantially rehabilitated structure
29 containing two or more dwelling units that is a housing
30 development project, as defined by paragraph (2) of subdivision
31 (h) of Section 65589.5, but does not include a second unit, as
32 defined by paragraph (4) of subdivision (i) of Section 65852.2, or
33 the conversion of an existing structure to condominiums.

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 a local agency or school district has the authority to levy service
37 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O