

Memorandum



Date: April 29, 2021
To: Legislative Committee
From: Jasmine McGinty, Legislative Coordinator
Subject: Discussion of SB 765 (Stern) – ADU Setback

Intro

On Thursday, April 15, the California Senate Housing Committee voted on Senate Bill 765 (Stern) "Accessory Dwelling Units: Setbacks" and only testimony was taken, no votes. SB 765 is a two-year bill and will not be heard again until next year. However, in the interim, the Senate Housing Committee is still accepting letters.

Background

As California works to address the housing crisis, accessory dwelling units (ADUs) have been identified as one way to increase the production of affordable housing. In recent years, the state has incentivized and clarified law to increase the production of ADUs. An ADU, often referred to as a granny flat or guest home, is a housing unit that may be built on a single-family or multifamily-zoned lot. Part of the new law includes new rear and side setbacks that apply to every lot in the state, no matter the size. A setback is a development standard intended to serve as the minimum distance the unit must be setback from the rear and/or side property line.

The Legislative Platform aligns with the County's legislative principles. These principles serve as a guide for the County in developing a position on any forthcoming federal and state legislation. One of principles is local control which ensures local authority and control over governance issues, land use policies and the delivery of services, including flexibility and customization in designing and implementing policies and services that are responsive to the community's preferences. Secure where appropriate, direct distribution of federal funds to local governments rather than a state/regional pass-through.

Discussion

SB 765 could be tied to the local control principle as it would allow for Santa Barbara County to have more control over land use polices in relation to setbacks for ADUs. SB 765 would improve the ability of local governments to regain control of setbacks.

Input from the Planning Department indicates that a change in existing law regarding side and rear yard setbacks could result in less ADU's being constructed. Since housing inventory is extremely low in Santa Barbara County, increasing local governing agencies

control over land use in this manner could result in less ADU construction, resulting in less housing opportunities for residents.

Pros:

- The bill will amend current accessory dwelling unit (ADU) laws so that local jurisdictions have the flexibility to ensure that setback requirements for ADUs are appropriate for their individual jurisdictions.
- SB 765 gives local governments the option to return to setback regulations they had established prior to the state law mandating the four-foot setback that took effect in 2020.
- The bill allows cities to perform appropriate and balanced local planning for ADUs, without precluding ADU production.

Cons:

- Opponents state that larger setbacks reduce affordability by not only increasing the amount of land a person must have in order to build a home, but also by allowing local agencies to thwart production by rendering development functionally illegal.
- Due in large part to overly restrictive setback requirements, ADUs for a long time were an option only available to very wealthy families in large homes on even larger lots. By proposing to repeal this critical aspect of recently enacted ADU law, opponents state that this bill would once again enable local agencies to require large setbacks in order to prevent ADU development.

Conclusion

Since the bill is a two- year bill, it will not be heard again until next year. However, the Senate Housing Committee is still accepting letters of support-if-amended SB 765. If amended, the following provisions are eliminated: 1) The provision that prohibits any rear and side yard setback requirements from being greater than those in effect as of January 1, 2020; and 2) The provision that requires rear and side yard setbacks to be limited to 4 feet if the local agency did not have an accessory dwelling unit ordinance as of January 1, 2020. It should be noted that the Board of Supervisors is set to consider the County's ADU ordinance amendment package on May 18, 2021. This package includes the requirement for a 4 foot side and rear yard setback. The package also requires the applicable front yard setback in each zone district.