

PLANNING & LAND USE MANAGEMENT

MOTION


On October 11, 2023, Assembly Bill 1033 (Ting, Chapter 752, Statutes of 2023) was chaptered into law, authorizing municipalities to adopt a local ordinance to allow accessory dwelling units (ADUs) to be sold or conveyed from the primary residence as condominiums.

Prior to AB 1033, State law provided that a local agency can allow an ADU to be sold or conveyed separately from the primary residence to qualified buyers, defined as persons and families of low or moderate income, only if specified conditions are met, including that the property was built or developed by a qualified nonprofit corporation; the property contains affordability restrictions on the sale and conveyance of the ADU or primary dwelling that ensure the ADU and primary dwelling will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer; the buyer must use the ADU as their principal residence; and the buyer of the ADU is subject to a repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the ADU or primary dwelling if the buyer desires to sell or convey the property.

With the passage of AB 1033 and upon adoption of a local ordinance, local agencies can also allow the separate conveyance of the primary dwelling unit and ADU(s) as condominiums. Per AB 1033, the local ordinance must require that the process to establish the condominiums complies with both the Davis-Stirling Common Interest Development Act, which governs homeowners associations (HOAs), and the Subdivision Map Act, which governs the subdivision of property, as well as all objective requirements of a local subdivision ordinance. AB 1033 also requires written and recorded evidence that each lienholder consents to the establishment of the condominiums. AB 1033 mandates local agencies to provide notice to applicants for ADUs of these requirements.

I THEREFORE MOVE that the Council instruct the Planning Department, with the assistance of the City Attorney, to prepare and present an ordinance to implement AB 1033 (Ting, Chapter 752, Statutes of 2023), which authorizes local agencies to adopt a local ordinance to allow accessory dwelling units (ADUs) to be sold separately or conveyed from the primary residence as condominiums.

PRESENTED BY:


NITHYA RAMAN
Councilmember, 4th District

SECONDED BY:


BOB BLUMENFIELD
Councilmember, 3rd District

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