

To: Merced City Council , City Manager and City Attorney

Sept. 5, 2018

From: Michael Belluomini,

Reference: ACCESSORY DWELLING UNITS for meeting of Sept. 17, 2018

BACKGROUND : The rental cost of housing is increasing rapidly, and the availability of rental housing is rapidly decreasing such that rents are becoming unaffordable to many residents of Merced. Rental rates have increased over 3% annually in the last ten years to current rates of \$620/month for a studio apartment, \$820/month for a one bedroom, and \$1,000/month for a two bedroom . The vacancy rate for apartments is under 1%. Demand, rental rates, are high because supply of housing for rent is very low. Some people have suggested that the city should consider rent control by law to address the problem. The city has approved four large apartment projects to provide more units to meet the demand. Only one of these projects has broken ground though approvals were given over a year ago, because investors cannot be found to fund these apartment projects that cost approximately \$30 million. An alternative tool to address this problem is accessory dwelling units (ADU) "granny houses" on existing residential lots.

STATE LAW ON ADUs : On January 1, 2017 AB 2299 and SB1069 became law and changed the California Government Code Section 65852.2 (attached) and other sections, to require cities and counties to allow accessory dwelling units on nearly all single family lots by right, with minimal discretion on the part of the city or county. The change in state law established one additional dwelling unit per single family lot as an "accessory use" (such as a garage, greenhouse, hobby shop, or tool shed is an accessory use or structure) that is allowed on every lot by right. If it can meet the required yard setbacks, building height requirements, maximum size, lot coverage, and parking requirements it is allowed . The changes in the state law establish that any local ordinance governing ADUs shall conform to this new state law in its requirements and if it does not then the local ordinance is null and void and the state law governing ADUs shall supersede local law.

The Merced City Zoning Ordinance section 20.08.040 states that there be a minimum of 5,000 square feet(or more) of lot area per dwelling for accessory dwelling units. A lot of 5,000 sq. ft. is one of the standard sizes for a new single family house in Merced. This seems to be contrary to the "accessory" to an existing dwelling concept in the state law for ADUs. Specifically Calif. Gov. Code Sec. 65852.2 (a)(8) states "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." Regarding parking the City zoning ordinance section 20.38.020 Table 20.38-1 states that Secondary Dwelling Units of one or two bedrooms provide one parking space and units with three or more bedrooms provide two parking spaces. The city zoning ordinance section 20.38.040 B 2. States "When the required off-street parking for a one-family structure in any R district is not to be provided in a covered garage or carport, each required car space shall be so located that it may later be covered by a garage or carport structure in

accordance with the provisions of this chapter." So parking is not allowed in the front yard setback of a house often the most practical location for added parking for an ADU. This section seems to be contrary to Calif. Gov. Code Sec. 65852.2(a)(1)(E)(x)(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."

USING ADUs TO ADDRESS THE HOUSING COST AND SHORTAGE : Though ADUs may reduce the shortage of affordable housing they are a partial solution that has advantages . There are thousands of lots that can provide locations for ADUs in Merced. Even if practical limitations of construction result in ADUs being predominantly built on lots of over 6,000 sq. ft. there will still be thousands of lots that qualify. Even if practical limitations of construction result in ADUs being built on lots that are large and have alley access for the ADU, or corner lots that have access from two streets for the ADU, there are thousands of lots that qualify. ADUs can be built by the homeowner with financing based on the equity in his existing house on the same lot. No large scale investors are required. ADUs provide the lot owner another source of income to aid the family's finances. ADUs are typically one or two bedroom units in which people who occupy three and four bedroom houses may move thereby freeing up bedrooms for occupancy by families.

Other cities throughout the state have changed their zoning ordinances to comply with the changes required by AB2299 to the Gov. Code. Attached is a table of the changes that were made by eight of the cities of San Mateo County regarding ADUs, showing the variations in ADU size, lot size, maximum height, parking requirements, and owner occupancy. Also attached is the Urgency Ordinance of the City of Walnut Creek regarding ADUs , addressing compliance with state law.

To allow ADUs in the City of Merced the zoning ordinance needs to be changed regarding parking requirements, setbacks, lot size, and distance between buildings. If the council wants to use ADUs to partially solve the problem of the shortage of housing units and high rental rates , then it needs to not only change the zoning ordinance to comply with state law but to facilitate and encourage development of ADUs. The City of Los Angeles has produced a "Guidebook to Accessory Dwelling Units" (attached) with definitions and descriptions of what is needed to apply to build an ADU. Development of ADUs promotes the city general plan policies of "sustainable development" , "smart growth", and easy access to services with reduced motor vehicle use.

PROPOSAL : Direct staff to prepare a report regarding 1) what needs to change in the zoning ordinance regarding ADUs to comply with state law ; 2) to explain alternative approaches to facilitate the development of ADUs in the city, and 3) describing the process to decide the city policy on ADUs, to be presented to the city council on November 5, 2018.