



Planning & Transportation Commission

Staff Report (ID # 14768)

Report Type: Study Session **Meeting Date:** 11/30/2022

Summary Title: Review 2022 Land Use & Housing State Legislation

Title: Study Session to Review 2022 State Legislation Related to Land Use and Housing

From: Jonathan Lait

Recommendation

Staff recommends that the Planning and Transportation Commission (PTC) receive staff's presentation regarding 2022 State legislation pertaining to land use and housing.

Background

On November 7, 2022, City Council received a staff report regarding State legislation that passed in 2022, including land use and housing legislation:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2022/20221107/20221107pccsm-amended-linked-q.a-2.pdf#page=168>.

The Council report contained the Policy and Services Committee report presented to that committee on October 11, 2022. New housing and land use laws built upon the passage of major land use reform bills from 2021, such as SB 9 (Atkins) is addressed on packet page 181.

In this report, staff highlights some of the new laws which have required or will require modifications to our Municipal Code and/or processing of housing and other development projects or will necessitate increased reporting and content in the City's policy documents.

Discussion

Urban Lot Splits - SB9, Became Effective January 2022

The PTC and Architectural Review Board did not review the City's SB9 standards, SB9 urgency ordinance, and interim ordinances, which staff presented and Council adopted in late 2021 and early 2022. The SB9 State legislation passed in the fall of 2021 and became effective in January 2022. The SB9 legislation required ministerial approval of urban lot splits and two-unit

developments on single-family zoned parcels. When changes to establish a permanent ordinance begin, staff will engage the PTC and ARB for recommendations on the standards.

Land Use Legislation Becomes Effective July 1, 2023 – AB2011 and SB6

Two of the State's land use reform measures will go into effect on July 1, 2023; these are AB 2011 (Wicks) and SB 6 (Caballero). Both bills authorize housing development projects in sites zoned for retail, office, parking, or along transit-rich corridors, so long as developers utilize stricter labor standards or adhere to stricter affordability requirements. Despite their similarities, both bills passed into law – a strategy that legislative leadership has touted as a method to give developers the choice to decide which strategy to use when approaching a housing development project in a non-residential zone: comply with stricter labor standards or stricter affordability standards. Any necessary local amendments related to these State laws would be taken up in the spring of 2023. The July effectiveness date enables staff an opportunity to meet with the PTC to review any changes to Title 18, rather than handling Title 18 changes through interim/urgency ordinances.

Parking Laws - AB 2097 and AB2244 – Effective January 2023

AB2097 prohibits public agencies from imposing minimum automobile parking requirements on specified residential, commercial, and other developments located within one-half mile of high-quality public transit stops. Notably, this bill is the second iteration of the legislation, which failed in the Appropriations Committee during the 2021 Legislative Session. The law has specific wording regarding public transit stops; staff is still reviewing the law to ensure full understanding; the two primary train stops in Palo Alto and north Mountain View are considered high-quality, major transit stops. The bus stops for the Valley Transit Authority (VTA) line 22 along El Camino provide 15-minute headways (frequency); staff's understanding is that where this bus line's stops intersect with another bus line with 15-minute headway service, this is considered a high-quality public transit stop.

The bill includes limited exceptions in the event a city can make certain findings supported by a preponderance of the evidence. To take advantage of these exceptions, the City would have to develop evidence to support findings that the absence of parking requirements would have a substantially negative impact on:

- 1) the City's ability to meet its share of RHNA for lower income households;
- 2) the City's ability to meet special housing needs identified in its housing element for the elderly or persons with disabilities; or
- 3) existing residential or commercial parking within one-half mile of the housing development project.

Of these three options, the third appears to have the broadest applicability; however, it only speaks to housing development projects. In other words, this would not be a basis for imposing parking requirements on commercial projects under AB 2097. In addition, where housing projects are concerned, AB 2097 provides several exceptions to these exceptions. For housing projects, a city may not use these findings to impose parking requirements if:

- 1) the project reserves at least 20 percent of its units for moderate-income households, students, elderly persons, or persons with disabilities;
- 2) the project contains fewer than 20 units; or
- 3) the project is subject to other state laws that permit reduced parking. In short, there is only a very limited class of projects for which the City could utilize findings to impose parking requirements: large housing projects that do not provide at least 20 percent of units for moderate-income households, students, elderly persons, or persons with disabilities.

AB2244 refines earlier legislation allowing parking reductions for sites with housing and religious buildings.

Although both bills are effective January 1, 2023, they are essentially self-implementing, as the state law is clear and completely supersedes local regulations. In other words, regardless of what is stated in the Palo Alto Municipal Code, staff will begin to apply the new standards in AB 2097 and AB 2244 on January 1, 2023. However, to avoid confusion, staff intend to update the Municipal Code to reflect these new parking laws and will bring these updates to the PTC at the earliest available opportunity.

Accessory Dwelling Unit (ADU) Legislation - SB 897, AB 916, and AB2221 Effective January 2023

The code changes to implement the 2022 ADU laws were included in the most recent ADU ordinance update that PTC recommended to Council. To ensure that the City will have a compliant ADU ordinance adopted by January 2023, staff is considering splitting the ADU ordinance recommended by the PTC into two separate items:

- 1) an ordinance that contains updates based on changes in state law and feedback from HCD, which will be presented to Council in December 2023; and
- 2) an ordinance that contains other policy questions considered by the PTC (e.g. an affordable ADU program), which would be delayed to early 2023.

Density Bonus Legislation – AB 2334 and AB 634

AB 2334 allows a housing development project to receive added height and unlimited density if the project is located in an urbanized very low vehicle travel area in specified counties, at least 80% of the units are restricted to lower-income households, and no more than 20% are for moderate-income households. The bill also clarifies the definition of ‘maximum allowable density’ in several ways. First, it provides the basic definition as the ‘maximum number of units allowed under the zoning ordinance, specific plan or land use element of the general plan.’ Second, it provides that if these limits are inconsistent, the greater shall prevail. Finally, the city doesn’t have a provision for dwelling units/acre to limit density, then the development standards are used. The city may be able to require developers to submit a ‘base density study.’

AB 634 clarifies that the Density Bonus law does not prohibit a city from requiring an affordability period in excess of 55 years in certain circumstances.

Staff will prepare updates to the City's density bonus implementing ordinance to conform to these changes.

Other Legislation of Interest

AB 2668

This law represents a clean-up of the prior law, SB35. It clarifies that SB35 projects are not subject to conditional use permits or any other non-legislative discretionary approval. The required affordable units are calculated before the density bonus is determined. The City cannot determine an application inconsistent with objective standards if there are missing application materials, when there is 'substantial evidence' the project is consistent with the standards. This law will also allow for development on hazardous waste sites deemed suitable for residential use.

Housing Element Laws – AB 1734, AB 2011, AB 2094, AB 2339 and AB 2653

These laws require the following:

- If the City does not submit its first draft housing element by January 31, 2022, emergency shelters must be allowed in residential zones or nonresidential zones that allow residential uses; these cannot be placed in industrial zones or other zones without residential uses and there must be amenities and services for homeless.
- No Net Loss: Sites shown in the housing element with carryover obligations, where the sites were not zoned as promised in the prior housing element cycle.
- There are rules for what to include in annual progress reports – and HCD may request corrections of these reports within 90 days after receipt, and the city would have 30 days to correct the APR.
- Failure to comply with APR requirements can result in HCD/Attorney General enforcement.
- The APRs must include a breakdown of ministerial vs. discretionary housing projects, progress in meeting extremely low-income housing needs, certain information about AB2011 projects, the total number of new housing units, the total number of demolished housing units, and data from all density bonus projects.

Housing Element Law AB 1445

This law requires fire, sea level rise, and evacuation risk to be considered in determining housing goals.

Open Space Element SB 1425

A City's open space element must address access to open space for all residents, climate resilience, and other co-benefits of open space, correlated with the safety element, and rewilding opportunities, correlated with the land use element. The open space element has to be updated by January 1, 2026.

Funding Laws AB2006 and SB948

AB 2006 requires the Department of Housing and Community Development, the California Housing Finance Agency, and the California Tax Credit Allocation Committee to enter into a Memorandum of Understanding by July 1, 2024, to streamline the compliance monitoring of affordable multifamily rental housing developments that are subject to a regulatory agreement with more than one of these entities.

SB 948 replaces individual project transition reserves for the development of affordable housing to a pooled reserve model, as specified, operated by the Department of Housing and Community Development.

SB 649

This law creates a state policy supporting local tenant preferences for lower-income households, which are subject to displacement risk. In addition, the bill authorizes local governments and developers in receipt of the low-income housing tax credit program and tax-exempt bonds for rental housing developments to restrict occupancy to those at risk of displacement. This legislation has a sunset of January 1, 2033.

AB 2234

This law seeks faster approval of building permits (ministerial permits) that follow planning entitlements (discretionary permits). The law(s) will require post-entitlement phase permits to have faster review times. Action items staff anticipates, working with Public Works staff, embarking upon include better defining 'minor' and 'standard' offsite improvements in our local ordinance.

Other Legislation

The attached diagram shows other laws not discussed in this report, such as:

- SB922 (Wiener) - sustainable transportation projects streamlined approval
- SB379 (Wiener) - to automate the permitting of residential rooftop solar systems and residential energy storage systems
- AB2206 (Lee) - "parking cash-out"

PTC¹ Liaison & Contact Information

Amy French, Chief Planning Official
 (650) 329-2336

amy.french@cityofpaloalto.org

Attachments:

- Attachment A: Visual of California New Laws as of October 1 2022 (DOCX)

¹ Emails may be sent directly to the PTC using the following address: planning.commission@cityofpaloalto.org

California Housing Legislation Highlights

Final - Oct 1, 2022 Blue = Signed into law

WILDFIRES

SB 1292 Limiting development in fire hazard zones & regulating firewood capacity elsewhere.

AB 2705 Increase fire & smoke detector programs.

GENERAL PLAN HOUSING ELEMENTS

AB 1445 Requires fire, sea level rise, evacuation risk to be considered in determining housing goals.

AB 1976 House near to fire zone consider lower density.

AB 2339 Unmet housing goals are carried over and added to goals of next planning cycle.

AB 2653 Allows CA to reject cities' housing element annual reports that don't meet guidelines.

PROJECT APPROVALS

AB 1912 Expedite review for short-staybed hotel projects.

AB 2218 Must lay within 20 miles to the CPGA before approval.

AB 2234 Faster approval of building permits

REDUCING COSTS

AB 1056 Municipal licensing program.

AB 2513 Reduce construction defect lawsuit costs.

AB 2063 Remove ban on density bonus units.

HOMEOWNERSHIP

AB 1837 Helps occupants & nonprofits buy foreclosed homes, limits investor buying.

AB 2123 Housing grants for healthcare workers.

AB 2146 Sets aside 10% of federal CHDO money for historic preservation & affordable housing.

AB 2170 Gives current & future occupants & nonprofits priority in buying foreclosed 1-4 unit buildings.

HOMELESSNESS

AB 914 Goal to end homelessness among domestic violence survivors, their children, & unaccompanied women.

SB 1083 Grants to prevent homelessness for families & pregnant people.

AB 2483 Prioritizing funding for housing that contains at least 25 units for elderly people who are homeless.

AB 2347 Funding for private non-profits for senior housing for people with a disability.

AB 2623 Allows a incentive to housing that allow to allow others housing in the cities that have children.

TENANT APPLICATIONS

SB 649 Preference for local residents in affordable housing.

SB 1324 No credit checks required for rental housing.

SB 1325 No credit checks required for tenants receiving subsidies.

ACCESSORY DWELLING UNITS

SB 897 2-story ADUs & garage conversions.

AB 916 Adding bedrooms.

AB 2221 Cleanup edits of previous ADU laws.

PARKING

AB 2097 No parking needed for housing or businesses near transit.

AB 2244 Parking reduction for sites with housing & religious buildings.

ZONING

AB 2011 & SB6 Housing in office/retail zones.

AB 682 Cohousing with shared kitchens.

AB 1551 Density bonus for commercial projects that incl. affordable housing.

AB 2018 House to allow an optional residential care facility zoning near those 5 people.

BALLOT MEASURES

Will be on 2024 ballot

SCA 2 Eliminates requirement that public housing be approved by ballot measure.

SCA 9 Protects a right to housing.

ACA 14 \$15 billion/year for affordable housing and housing the homeless.

AB 411 \$400 million bond for veterans' housing.

SB 1457 \$25 billion affordable housing bond.

TAXES

AB 1771 Tax on profits from home sold within 7 years of purchase.

PUBLIC LAND

AB 2233 Affordable housing on surplus state land.

AB 1748 Favorable rules for surplus land owned for use or public density housing.

AB 1910 Converting golf course to parks and housing.

AB 2357 Wildlife habitat org. interested for public land for affordable housing.

AB 2439 Housing on DMV land.

SB 2762 Affordable housing on "hang lots" at parks.

DATA

AB 808 Transparency on who owns property.

AB 2094 Extremely low income housing production.

AB 2449 Rental regulations.

AB 2933 Homelessness and child care.

AB 2873 Diversity in affordable housing production.

AFFORDABLE HOUSING PRODUCTION

AB 2334 More density in areas with less driving.

AB 2443 Measure to move equity to low-income neighborhoods approving affordable housing.

FUNDING

SB 948 Statewide reserve fund for affordable projects.

AB 1288 Privatize tax credits for new affordable housing.

SB 1666 \$200,250 million a year for affordable housing.

AB 1945 Developer incentives & incentives fund.

AB 2006 Streamlined monitoring of affordable projects.

AB 2186 Grants for cities that create jobs.

AB 2305 Consolidated funding application.

CREATING AFFORDABLE HOUSING AGENCIES IN SOCIAL

SB 679 Los Angeles County.

SB 1177 Burbank, Glendale, Pasadena.

SOCIAL HOUSING

AB 2875 Shared common social housing.

SCHOOL EMPLOYEES

AB 1719 Community college worker housing.

AB 2295 Allows school employee housing to exceed some local zoning.

STUDENT HOUSING

SB 886 Faster approvals for housing.

AB 1764 Student housing university state & community college money housing received by local gov't only with state approval.

AB 2272 Loans for maintenance of private college student housing.

PRESERVING AFFORDABLE HOUSING

AB 470 Prohibit evictions.

AB 1859 Rent limits on market rate buildings converted to affordable housing.

AB 1931 Tax credits for preserving affordability.

PROPERTY TAXES

AB 1206 Tax break for low-income units in limited equity co-ops.

SB 1436 Increase property tax on owner-occupied affordable housing.

AB 1933 Eliminate property tax on land that will be used for building low income homes.

RENTAL PROTECTIONS

SB 847 Grants for landlords who participated in the COVID relief program.

SB 971 Allows pets in new affordable housing buildings.

SB 1017 Protects domestic violence survivors from eviction.

RENAMING THINGS

AB 2503 Studies renaming "Landlord of 'tenant" in laws.

GREEN BUILDING

AB 2446 Reducing carbon emissions from building materials.

AB 2058 Limits on when the Title Act can be used to close an apartment building and avoid evictions.

AB 2179 Extension of emergency COVID tenant protections.

AB 2248 Rent cap.

AB 2297 Right to air conditioning / cooling.

AB 2210 Opportunity for tenants to purchase when they're sold.

AB 2713 Limits on owner evictions & Title Act evictions.

YOUTH

AB 1815 Foster youth housing.

TENANT PROTECTIONS

AB 1816 Recovery housing for people returned from jail or prison.

AB 1961 Centralized website for applying for affordable housing.

AB 2289 No credit checks required for tenants receiving subsidies.

AB 2287 Regulations on assembly fee instead of a security deposit.

AB 2303 Home asking about criminal record on rental applications.

AB 2527 No credit checks required for any tenant.

AB 2559 Reusable credit / tenant screening reports.

more details at tinyurl.com/2022housingbills CC-BY Alfred Twu, mail@firstcultural.com @alfred_twu

Contact your representatives @ findyourep.legislature.ca.gov