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DATE: August 17, 2023

## STAFF REPORT

AGENDA ITEM NO. 6.1

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TO: FOSTER CITY PLANNING COMMISSION

PREPARED BY: SOFIA MANGALAM, COMMUNITY DEVELOPMENT DIRECTOR  
JAMES ATKINS, SENIOR PLANNER

CASE NO.: RZ2023-0006 & RZ2023-0007

PROJECT LOCATION: CITYWIDE

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### **REQUESTED ACTION/PURPOSE**

Adopt Resolutions recommending City Council adopt Ordinances amending Title 17, "Zoning" Chapters 17.78 Accessory Dwelling Units, and 17.86 Density Bonuses and finding the amendments exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15061(b)(3).

### **NOTICING/PUBLIC OUTREACH**

Notice of the August 17, 2023, Planning Commission Public Hearing, was made available to the public in the following ways:

- Published in the Islander – August 2, 2023
- Displayed on FCTV/Channel 27 – August 3, 2023 through August 17, 2023
- Emailed out to the Planning Listserv – July 27, 2023
- Posted on the Foster City website at [www.fostercity.org](http://www.fostercity.org) – July 27, 2023
- Posted on-site and at all of the City's official posting locations – July 27, 2023
- Electronic marquee at Leo Ryan Park – August 3, 2023 through August 17, 2023

### **BACKGROUND**

Over the past several years, the California State Legislature has adopted numerous bills intended to address California's housing crisis by limiting local government discretion over housing development projects in an effort to increase housing supply. In 2022, this trend continued in Sacramento and members of the legislature introduced hundreds of bills related to planning and land use laws.

A Planning Commission study session was held on [June 15, 2023](#), informing the Planning Commission and the public regarding recent developments in land use laws including the key accessory dwelling unit (ADU) and density bonus bills (see [Attachments for the Study Session on June 15, 2023](#)). The Legislature enacted refinements to ADU and density bonus law via Assembly Bill (AB) 2221, Senate Bill (SB) 897, AB 682, AB 2334, and AB 1551.

### **ANALYSIS**

#### Accessory Dwelling Units

Accessory dwelling units, more commonly known as ADUs, second units, granny flats or casitas, allow property owners to add additional residential units to properties with existing or proposed primary dwelling units (both single-family and multifamily homes are eligible). With few exceptions, the City must allow ADUs everywhere residential uses are permitted, and applications to add an ADU must be processed ministerially using applicable, objective standards and without a hearing. The legislature adopted two (2) key ADU bills in 2022: [AB 2221](#) and SB 897. These bills took effect on January 1, 2023, and amend [Government Code Sections 65852.2](#), [65852.22](#), and [65852.23](#), and [Health and Safety Code Section 17980.12](#). These bills make further revisions to state law, and local jurisdictions need to readopt any local ordinances related to ADUs to include new provisions/clarifications.

Foster City's ADU Ordinance was last amended on January 19, 2023, and further amendments are required to comply with the bills that took effect earlier this year. The following points outline the proposed amendments, which include mandatory revisions to comply with updated legal requirements as well as includes several clarifications to definitions and the general language of the current code:

- Added clarification that accessory dwelling units are permitted in all areas zoned to allow residential development.
- Amended definitions of accessory dwelling unit and junior accessory dwelling Unit for compliance with Gov. Code §65852.2 and §65852.22.
- Added and amended definitions for general terms identified in the City's code including:
  - Attached accessory dwelling unit
  - Conversion accessory dwelling unit
  - Detached accessory dwelling unit
  - Efficiency unit
  - Major transit stop
- Refined the permit application process for accessory dwelling units.
- Outlined the options that will determine the maximum number of accessory dwelling units permitted on a single-family residential lot.
- Amended the required development standards for junior accessory dwelling units to comply with Gov. Code §65852.22.
- As required by Gov. Code §65852.2, added allowance for accessory dwelling units in front yards when unfeasible to locate elsewhere on a single-family residential lot.
- As required by Gov. Code §65852.2, amended the required development standards to allow for heights of accessory dwelling units to range from 16 feet to 25 feet when certain conditions are satisfied.
- Amended the parking requirements to comply with Gov. Code §65852.2.
- Amended the Permit Process to include language stating that if an application is denied, the City shall respond with a full set of comments identifying the application's defects and an explanation as to how it may be remedied.
- As required by Gov. Code §65852.2, added permittance of a demolition permit to run concurrently with an application for an accessory dwelling unit.
- As required by Gov. Code §65852.2, removed the restriction of fire sprinkler installation in the primary residence with the construction of an accessory dwelling unit.

#### Density Bonus Law

Density Bonus Law was enacted in 1979 (Gov. Code §§65915 – 65918) allowing developers with five or more homes, the right to increase density on a property above the maximum set under a

jurisdiction's General Plan. In exchange for the increased density, a certain number of the new dwelling units must be reserved at below market rate rents or meet other specified criteria, such as housing for seniors. The law also provides rights to housing and mixed-use developments to reduce development costs through the granting of incentives/concessions; achieve permitted densities through waivers of development standards; and reduce parking requirements.

On September 28, 2022, the Governor signed Assembly Bills (AB) 2334, 1551, and 682, three (3) bills that make various amendments and clarifications to State Density Bonus Law. The following points outline required amendments, as well as includes clarifications to definitions and the general language of the current code:

- Added language to clarify that the code will implement the housing element of the City's General Plan.
- Added clarification to the general applicability of State Density Bonus Law.
- Simplified the application requirements and identified pertinent information to ensure conformance with State Density Bonus Law.
- Clarified that State Density Bonus Law permits a density bonus award to qualified commercial projects.

The recent revisions to State Density Bonus Law also allow for additional bonuses to be awarded in defined "low vehicle-miles-traveled (VMT) areas" that are urbanized and have a low rate of vehicle miles traveled. Additionally, the bills refined how density calculations are performed, particularly in zones that do not use a dwelling unit per acre density standard and instead rely on FAR limitations or other form-based development standards. Chapter 17.86 Density Bonuses was last amended on November 18, 2013 and is required to be updated by the City to ensure compliance with the State law.

As a means to reduce the number of code amendments required to be made to the City's municipal code due to changes in State law, the proposed amendments to the Density Bonus sections are revised to directly defer to State law where the City's regulations are not specific to the City's permissible regulations. Additionally, revisions to these sections have been made to add clarity to requirements for ease of understanding and interpretation.

The proposed amendments are included in Attachment 3 and 4 and include text edits in a strike-through and replace format for review by the Planning Commission.

## **ENVIRONMENTAL**

The proposed actions would update City's existing Municipal Code to align with requirements of the most recent updates to the State's laws. The actions would not result in physical changes to the environment. Pursuant to CEQA Guidelines Section 15061(b)(3), the adoption of an ordinances regulating density bonus and accessory dwelling units regulations are exempt.

## **SUMMARY**

Staff recommends the Planning Commission recommend that the City Council amend the City of Foster City Municipal Code, Chapter 17, Sections 17.78 Accessory Dwelling Units and 17.86 Density Bonuses.

## **NEXT STEPS**

The proposed text amendments will be forwarded to the City Council for consideration at a noticed Public Hearing.

**ATTACHMENTS:**

1. Attachment 1 – Planning Commission Resolution for Chapter 17.78 ADU
2. Attachment 2 – Planning Commission Resolution for Chapter 17.86 Density Bonuses
3. Attachment 3 – Revised Section 17.78 Accessory Dwelling Units with Redlines
4. Attachment 4 – Revised Section 17.86 Density Bonuses with Redlines
5. Attachment 5 – Draft City Council Ordinance for Chapter 17.78 ADU
6. Attachment 6 – Draft City Council Ordinance for Chapter 17.86 Density Bonuses