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DATE: June 15, 2023

## STAFF REPORT

AGENDA ITEM NO. 9.1

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TO: FOSTER CITY PLANNING COMMISSION

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CASE NO.: N/A

PROJECT LOCATION: CITYWIDE

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### **REQUESTED ACTION/PURPOSE**

The purpose of this Study Session is to inform the Planning Commission and the public regarding recent developments in land use law that affect how the City plans for, reviews, and act on new housing development applications.

### **KEY PLANNING OR DESIGN CONSIDERATIONS**

- Understanding opportunities for new development created by state law and recognizing limitations on City discretion to deny or condition certain housing development projects.

### **NOTICING/PUBLIC OUTREACH**

The public was advised of this Study Session in the following ways:

- Ad in the Foster City Islander – May 31, 2023
- Foster City Website: [www.fostercity.org](http://www.fostercity.org) – May 30, 2023
- Foster City TV Channel 27 – June 1, 2023 through June 15, 2023
- Electronic Marquee Sign in Leo Ryan Park – June 1, 2023 through June 15, 2023
- Public Posting Places – May 31, 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. Over the course of the year, members of the Legislature introduced hundreds of bills related to planning and land use that would affect the Planning Commission's work.

Of these bills, many of the highest profile proposals were passed by both houses and signed into law by the Governor. Bills such as AB 2011 (Wicks) and SB 6 (Caballero), which provide streamlining to allow housing development on commercial properties, AB 2097 (Friedman), which eliminates parking requirements on qualifying developments and AB 2234 (R. Rivas), which streamlines the post entitlement permit process, all were chaptered and take effect in 2023. In addition, the Legislature enacted refinements to accessory dwelling unit (ADU) law and density bonus law via AB 2221, SB 897, AB 682, AB 2334, and AB 1551.

The Study Session will include a presentation (see Attachment #1) that reviews each of these bills in detail.

## **ANALYSIS**

Accessory dwelling units, more commonly known as 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 key ADU bills in 2022: AB 2221 and SB 897. In the event that the City denies an ADU application, these bills require the City to provide an applicant with a full set of comments identifying both the application's defects and also explaining how the application can be remedied. The bills also increased the minimum height that the City must allow when reviewing ADU applications, which ranges from 16 feet to 25 feet.

In prior years, the Legislature introduced bills – such as SB 35 and AB 2162 – to streamline the planning entitlement process, and the Permit Streamlining Act establishes deadlines for the City to review and act on development applications. However, developers also require a number of approvals from the City after entitlements have been approved to implement their approved projects. Accordingly, AB 2234 defines a new class of “post-entitlement phase permits” including building permits, demolition permits, and minor permits for off-site work. Under AB 2234, the City must review and act on post-entitlement phase permits for housing development projects within 30 days (or 60 days for projects with more than 25 units). Failure to comply with these deadlines is deemed to be a violation of the Housing Accountability Act. In addition, by January 1, 2024, the City must allow for post-entitlement phase permits to be submitted on-line and meet other procedural requirements.

In an effort to reduce development costs and reduce reliance on private automobiles, AB 2097 eliminates most minimum parking requirements near public transit stations. Specifically, if a development project is proposed within ½ mile of rail or bus rapid transit stations, ferry terminals served by bus or rail transit, intersecting bus routes with 15-minute peak headway times, and planned major transit stops included in the regional transportation plan, then it is exempt from minimum parking requirements.

AB 2011 and SB 6 were both enacted in order to allow residential development on a streamlined basis in areas zoned for commercial development. AB 2011 creates two new streamlined processes: one for 100% affordable projects and one for mixed-income projects that each define specific development standards for qualifying projects. Both processes require ministerial review, which means that CEQA will not apply. SB 6 does not create a new development review process, but it enables residential projects to qualify for SB 35 on commercially-zoned parcels. Projects that use either AB 2011 or SB 6 will also be subject to defined labor standards.

The State Density Bonus Law allows developers to qualify for bonus units, reduced parking standards, and other development standard modifications (known as incentives/concessions and waivers) in exchange for affordable housing, senior housing, or other special housing types. In 2002, three bills (AB 682, AB 2334, and AB 1551) modified the State Density Bonus Law to allow shared housing buildings to qualify for a density bonus and to allow the City to award a commercial density bonus to qualifying projects. The bills 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. Finally, 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.

### **SUMMARY**

The Study Session is intended to allow the Planning Commission and members of the public to receive information about new land use legislation related to housing and ask questions about how the new requirements may affect planning in Foster City.

### **NEXT STEPS**

Receive the presentation and continue to monitor developments in state law. The Planning Commission may also direct staff to bring back further information on any of the topics discussed.

### **ATTACHMENTS:**

1. Recent Developments in Land Use Law Slide Presentation by Eric S. Phillips