



Agenda Report

December 9, 2019

TO: Honorable Mayor and City Council

FROM: City Manager

SUBJECT: UPDATE ON RECENT HOUSING LEGISLATION

RECOMMENDATION:

It is recommended that the City Council receive this report and provide direction as appropriate.

EXECUTIVE SUMMARY:

The California Department of Housing and Community Development (HCD) identified significant housing challenges throughout the state in its 2018 housing assessment, and issued policy recommendations aimed at increasing production, lowering housing costs, and increasing accountability and enforcement for local jurisdictions to produce adequate housing supply. As a result, the state legislature has passed numerous bills over the past two years addressing these recommendations. Continuing the trend of the past two years, the 2019 legislative session resulted in the passage of a new package of housing bills. Among these are Senate Bill 330, Assembly Bill 1763, and a package of relating to Accessory Dwelling Units (ADUs). SB 330 prohibits the reduction of housing development capacity through downzoning and prohibits housing moratoriums for a period of five years, while also creating a new preliminary application process and requiring that new housing development meet certain requirements when replacing existing housing units. AB 1763 creates a more robust density bonus incentive program for projects that consist of 100% affordable housing. The ADU bills combined result in limiting local jurisdictions' ability to impose certain development standards and impact fees, allows ADUs in multi-family zones, and requires that a Junior ADU be allowed within an existing residence in addition to a newly constructed ADU. Staff is preparing to implement these bills through changes in process and the preparation of ordinances that will be brought forward to the City Council at a later time.

BACKGROUND:

State Housing Policy

HCD released its State-mandated California Statewide Housing Assessment (CSHA) in February 2018. In summary, it identified the following significant housing challenges facing California:

- Housing production averaged less than 80,000 new homes annually over the last 10 years, and ongoing production continues to fall far below the projected need of 180,000 additional homes annually.
- Lack of supply and rising costs are compounding growth inequality and limiting advancement opportunities for younger Californians. Without intervention, much of the housing growth is expected to overlap significantly with disadvantaged communities and areas with less job availability.
- Continued sprawl will decrease affordability and quality of life while increasing transportation costs.
- Of California's almost 6 million renter households, more than 3 million households pay more than 30% of their income toward rent, and nearly 30% - more than 1.7 million households – pay more than 50% of their income toward rent.
- Overall homeownership rates are at their lowest since the 1940's.
- California is home to 12% of the nation's population, but a disproportionate 22% of the nation's homeless population.
- For California's vulnerable populations, discrimination and inadequate accommodations for people with disabilities are worsening housing cost and affordability challenges.

In addition to identifying these broad housing challenges, the CHSA also identified key elements of a Housing Action Plan, consisting of the following:

1. Streamline Housing Construction – Reduce local barriers to limit delays and duplicative reviews, maximize the impact of all public investments, and temper rents through housing supply increases.
2. Lower Per-Unit Costs – Reduce permit and construction policies that drive up unit costs.
3. Production Incentives – Those jurisdictions that meet or exceed housing goals, including affordable housing goals, should be rewarded with funding and other benefits. Those jurisdictions that are not meeting housing goals should be

encouraged to do so by tying housing planning and permitting to other infrastructure-related investments, such as parks or transportation funding.

4. Accountability and Enforcement – Strengthen compliance with existing laws, such as State housing element law and Housing Accountability Act.
5. Dedicated Housing Funding – Establish sources of funding for affordable housing and related investments. Any source of funding should be connected to these other reforms.

Planning in Pasadena

The City of Pasadena has long been recognized as a leader in the areas of urban planning and affordable housing, as demonstrated through the following achievements:

- The 2015 General Plan vision encourages growth primarily in areas within walking distance of the City's six Metro Gold Line light rail stations, as well as within the downtown areas and commercial corridors.
- 87% of projects approved since 2014 are located within a half mile of a transit station.
- Pasadena added 1.07 jobs added per housing unit built between 2005-2015, compared to 1.77 jobs added per housing unit built across the five-county region. This jobs housing balance is an important component of a GHG emission reduction plan.
- Issued permits for more than three times the number of units allocated for market-rate housing in current Housing Element Cycle (2014-2021).
- Permitted over 230 new affordable units since 2014 at various affordability levels.
- Adopted an ordinance to increase the inclusionary housing requirement from 15% to 20%, remove trade-down provisions, and increase inclusionary housing in-lieu fees, which can be leveraged by the City to preserve, rehabilitate, or build new affordable units.
- Adopted an ordinance to allow the conversion of existing hotels and motels to affordable housing, including permanent supportive housing.
- Preparing ordinance to incentivize the creation of more Single-Room Occupancy units, which has the potential to provide alternative housing choices that are more affordable.

One Size Doesn't Fit All

Unfortunately, when considering legislation, Sacramento does not appear to take into account efforts of individual cities such as Pasadena to meet their regional housing

allocations and promote affordable housing. For example, while Pasadena has its own local inclusionary housing ordinance, existing State law related to density bonus does not take this into account. Additionally, proposed statewide legislation, including SB 50, which would increase density around transit does not consider that Pasadena allows up to 87 units per acre – which is incredibly dense – in many of our TOD areas.

In response to the findings of the CSHA, the State legislature has been steadily working on legislation addressing all five of the key elements of the Housing Action Plan. A package of housing bills were signed into law in 2017 aimed at streamlining development approvals, overhauling Housing Element law and the Regional Housing Needs Assessment (RHNA) process to increase transparency and compliance, easing restrictions on Accessory Dwelling Units (ADUs), and creating funding sources for local jurisdictions to plan for increasing housing production, among many others.

In 2018, the legislature followed up with another package of housing bills. These laws included some new provisions, while focusing mostly on clarifying, strengthening, and expanding provisions from the 2017 housing package. Specifically, further refinements were made regarding the RHNA allocation process. Combined with 2017 legislation, the result has been to establish a RHNA allocation process that relies on more quantitative methodology based on increased production near areas with better access to transit and jobs. Additionally, development streamlining provisions have been signed into law that make it more difficult for jurisdictions to deny development project applications if they are out of compliance with Housing Element requirements. These laws have already influenced the statewide housing allocation for the next Housing Element cycle, resulting in housing allocations that will likely be many times higher than previous cycles. Going forward, those jurisdictions that do not make substantial progress toward meeting their housing allocations will face even further limitations on their ability to regulate new housing development.

ANALYSIS:

Over the course of 2019, the legislature continued its efforts toward the goals of the Housing Action Plan with the passage of even more legislation focused on housing production and affordability. More than 150 housing and land use related bills were introduced into the 2019 legislative session. Staff closely monitored SB 50 (Wiener), SB 4 (McGuire), and AB 1279 due to the drastic impact they would have had however, all three became two- year bills. Summaries of three of the key bills from the 2019 legislative session are provided in this section. A more detailed summary is provided in Attachment A.

Senate Bill 330 (Skinner)

SB 330, also referred to as the Housing Crisis Act of 2019, consists of two major provisions and is effective until January 1, 2025. The first provision affects the processing of all housing development projects, and the second provision limits local jurisdictions' ability to downzone properties while limiting the ability of developers to replace existing housing with new housing.

With respect to processing housing development projects, SB 330 creates a new 'Preliminary Application', which an applicant may elect to submit that includes only a limited amount of information as specified in the law. As long as all the required information is provided, the application is then subject only to the plans, ordinances, and fees in effect on the date that the complete preliminary application was submitted, with limited exceptions, such as the need to comply with the most current version of the California Environmental Quality Act (CEQA). Following the submittal of a complete Preliminary Application, the applicant must submit all other material needed to complete the application within 180 days, and must respond within 90 days if the application is deemed incomplete. Failure by the applicant to adhere to these timelines will cause the Preliminary Application to have no further effect. The City must also determine the historic significance of the site at the same time as the application is found to be complete. Finally, if a housing development project is deemed consistent with all 'objective' standards, no more than five total public hearings can be conducted by the City after the project is deemed complete. Continued hearings, appeals, and any meeting conducted by the City count as one of the five meetings.

The second provision of SB 330 applies only to 'affected cities', including charter cities. Based on the established criteria, Pasadena is certain to be included in the list of 'affected cities.' While SB 330 is in effect, the City cannot change its general plan, specific plans, zoning ordinance, or subdivision ordinance to lessen the intensity of housing" below that in effect on January 1, 2018 unless the City concurrently changes other standards to ensure that there is no net loss in residential capacity. This includes changes in development standards, such as reductions in height, density, or floor area ratios that would lessen the intensity of housing. Additionally, no moratorium may be imposed on housing development, no subjective design standards adopted after January 1, 2020 may be enforced, and no new residential development caps may be adopted. There is some ambiguity as to whether existing caps may be enforced.

Finally, SB 330 also includes provisions intended to prevent the loss of existing affordable housing. This includes a requirement that a new housing development project must create at least the same number of units as those that will be demolished, including replacing any existing income-protected units that have existed on the site in the past five years. It also requires that any existing occupants of units must be allowed to remain until six months before construction starts and receive relocation benefits and right of first refusal for a unit in the new development.

Assembly Bill 1763 (Chiu)

AB 1763 provides a 'super' density bonus for housing projects that are 100% affordable to low and very low income households, but allows up to 20% of the units to be affordable to moderate income households. A qualifying project is entitled to a density bonus of 80% of the number of lower-income units, however no density limit may be imposed on qualifying projects within a half-mile of a major transit stop.

In addition to the density bonus provisions, qualifying projects may request four incentives and concessions rather than the maximum of three that applies to traditional density bonus projects. A project that qualifies for no density limit due to proximity to transit is also entitled to a three-story or 33-foot height increase.

Accessory Dwelling Unit (ADU) Bills

A package of six bills¹ from both the State Assembly and Senate were signed into law that will significantly restrict jurisdictions' ability to regulate ADUs. Effective January 1, 2020, the law relating to ADUs will be amended as follows:

- Must allow ADUs within residential and mixed-use zones
- Must allow Junior ADUs (unit that is no more than 500 square feet in size and contained entirely within an existing single-family structure) in addition to one detached, new construction ADU that does not exceed four-foot side and rear yard setbacks and 800 square feet in size
 - This effectively allows up to three units per single-family lot
- Must allow ADUs in existing multi-family structures
 - May convert existing non-habitable space as long as building code standards are met
 - Number of ADUs may not exceed 25% of the number of existing units, or two detached ADU's may be constructed if height doesn't exceed 16 feet and 4-foot side and rear setbacks are provided
- May no longer require owner occupancy for detached ADUs, however owner occupancy is required if a Junior ADU is proposed
 - If a detached ADU is proposed, but no Junior ADU, the property owner cannot be required to reside either in the primary residence or the detached ADU
 - If a Junior ADU is proposed, the property owner is required to reside in either the main residence or the Junior ADU
- May no longer require replacement of parking lost due to conversion of an existing garage, carport, or covered parking structure to an ADU
 - No parking may be required for an ADU within a half-mile walking distance of public transit, including bus stops
- May not require side and rear setbacks in excess of 4 feet, and no setback may be required if the ADU is within an existing structure or reconstructed within the footprint of an existing structure

¹ The six bills include AB 68 (Ting), AB 587 (Friedman), AB 670 (Friedman), AB 671 (Friedman), AB 881 (Bloom), and SB 13 (Wieckowski).

- May not apply lot coverage, floor area ratio, or open space standards that prevent construction of an 800 square foot ADU with 4-foot side and rear setbacks and height of up to 16 feet
- Must allow a maximum size of 850 square feet, or 1,000 square feet for an ADU with 2 or more bedrooms
 - Must also allow efficiency units with minimum of 150 square feet
- May not charge impact fees or parkland dedication (Quimby Act) fees for ADUs smaller than 750 square feet
 - For ADUs larger than 750 square feet, the fees must be proportional to the size of the ADU in relation to the primary residence
 - Does not apply to school facility fees
- May not charge sewer or water connection fees or capacity charges to an “interior” ADU, or require a separate utility connection
 - Exception for ADUs constructed along with a new dwelling unit
- May not require fire sprinklers in an ADU unless they are required for the primary residence
- CC&R's in single-family zones may not effectively prohibit or unreasonably restrict construction of an ADU or Junior ADU
- Must process ADUs by-right within 60 days of submittal of a complete application; otherwise ADU is deemed approved
 - No hearing or discretionary review may be required

More detailed information on the ADU bills is provided in Attachment A, and a comparison of the new regulations with Pasadena's existing regulations is provided in Attachment D.

NEXT STEPS:

The passage of these key pieces of legislation will have varying degrees of impact on the City of Pasadena's existing land use regulations, development standards, and application processing procedures. Staff has been closely tracking these bills throughout the year and is working to be in compliance by the time the legislation is in effect. Achieving compliance with SB 330 will include developing revised applications and processing procedures for housing development projects, and evaluating whether certain measures should be included in the Specific Plan Updates. Staff will also prepare Zoning Code amendments to codify the provisions of AB 1763 for affordable housing density bonuses, as well as make the necessary amendments to the ADU regulations. Ordinances for these amendments will follow the typical process of

Planning Commission review and recommendation before being brought forth to the City Council for formal adoption. Finally, staff will prepare a revised fee resolution for the City Council concurrent with the ADU ordinance in order to update the new limitations on impact fees for ADUs.

At the August 26th Council meeting, Councilmember McAustin suggested lowering the City's Residential Impact Fee for all ADUs. The Council had previously taken action to reduce the fee for units occupied by family members of the main residence or in cases where an affordable housing covenant was provided. While the ADU bills prevent the imposition of parkland fees on ADUs smaller than 750 square feet and require proportionality for larger units, the Council may wish to consider the Councilmember's suggestion to reduce the fee for all ADUs.

FISCAL IMPACT:

This agenda report is an informational update on changes to State law. There is no action proposed by this agenda item that would result in a fiscal impact. The legislation described in this report includes provisions that limit the City's ability to collect certain fees for new ADU projects.

Respectfully submitted,



STEVE MERMELL
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Attachments: (4)

- Attachment A – Memorandum from Barbara E. Kautz Re: 2019 Housing Legislation
- Attachment B – ADU Legislation Summary Table
- Attachment C – Bill Text of SB 330
- Attachment D – Bill Text of AB 1763