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ALTO**

Planning & Transportation Commission Staff Report

From: Planning and Development Services Director
Lead Department: Planning and Development Services

Meeting Date: November 8, 2023
Report #: 2310-2123

TITLE

Informational Report Regarding 2023 State Legislation

RECOMMENDATION

This is an informational report and there is no action required at this time. Staff intends to return to the Planning and Transportation Commission in 2024 with any necessary amendments to the City's zoning and/or subdivision code needed to implement laws related to Land Use, Housing, Development Regulations, and Transportation.

EXECUTIVE SUMMARY

Several recent land use, housing and development regulation laws that passed in 2023 will go into effect January 1, 2024. The City's legislative consultant (Townsend) shared 35 laws going into effect in January related to housing, land use, and development standards. Other laws the Governor signed in October will not go into effect until July 2024 or thereafter.

Several 2023 State laws that became effective January 2023 (Assembly Bill (AB) 2097) and July 2023 (AB 2011 and Senate Bill (SB) 6) have not been implemented via changes to the Palo Alto Municipal Code (PAMC). Staff is preparing clarifying handouts related to these laws and other housing laws.

BACKGROUND

January and July 2023 Laws Not Addressed in Palo Alto Municipal Code

AB 2097: The City Council's June 19, 2023 packet included an informational report about Assembly Bill (AB) 2097 that went into effect January 1, 2023. This appeared as item 43 on Council's consent agenda¹. Effectively, for Palo Alto, the requirements of AB 2097 generally apply to fixed rail station locations, though the map² of the half-mile radius for the Palo Alto

¹ Link to June 19 Council agenda <https://cityofpaloalto.primegov.com/Portal/Meeting?meetingTemplateId=1170>

² Map of AB2097 radii www.paloaltoonline.com/news/reports/1686780169.pdf

station takes into consideration the slightly offset location of the bus transfer service station near the University Avenue transit stop. Development projects (any activity that requires a building permit except transient lodging) on property depicted within the shaded radius circles on the map are exempt from minimum parking requirements.

Staff created a handout (Attachment A) but did not anticipate creating a standalone ordinance to address this state law. The bill does not exempt a developer from meeting local requirements for electric vehicle supply equipment or parking spaces accessible to persons with disabilities. Palo Alto's approach is to only require these spaces when a developer voluntarily provides parking spaces on site. With AB 2097, Transferrable Development Rights (TDRs) may again become an important transactional consideration for new Downtown development – as it essentially returns TDRs to a parking-exempt status for those properties included within the mapped radius.

Planning and Development Services and Office of Transportation staff have discussed potential changes to PAMC Chapters 18.52 and 18.54 related to AB2097. A key interest is Transportation Demand Management (TDM) plans; TDMs are typically implemented when parking reductions are requested. Staff proposes to revise Title 18 to require TDM plans for projects utilizing AB 2097 even though no formal parking reduction is necessary. Staff is reviewing the four 2023 parking-related State bills recently signed into law, to consider revising Title 18.

AB 2011 and SB 6: [AB 2011](#) and [SB 6](#) were signed into law in 2022 but did not go into effect until July 1, 2023. The two laws together were intended to help with the [construction of new housing](#) for low- and middle-income residents on underused commercial sites that are zoned for retail, parking, or office space, and for housing near existing transit or where new transit projects will be built. The two laws also reinforce health benefits and wage laws with contractors building housing and encourage these contractors to offer apprenticeships. Staff is considering preparing checklists to help in understanding these two laws, as other cities in Santa Clara County have done. In addition, to address bills like these that may not warrant code revisions, staff intends to add a general provision to Title 18 confirming that the code should be read and implemented in a manner consistent with preemptive state laws.

- **AB 2011** (Affordable Housing and Road Jobs Act) establishes housing as an allowable use on any parcel zoned for office, retail, or parking are principally permitted uses. AB 2011 does

not apply when the development would require the demolition of a historic structure that was placed on a national state or local register.

- **SB 6** (Middle Class Housing Act) allows residential use on commercially zoned property without requiring a rezoning with applicants committing to prevailing wages for workers and to 'skilled and trained workforce' requirements. It creates a ministerial, streamlined approval process for two types of projects: 100% affordable housing projects in commercial zones and mixed income housing projects along commercial corridors. This law allows projects to be exempt from CEQA; local government must identify any inconsistencies with qualifying criteria within 60 or day days, otherwise development is deemed to comply with standards. Then the City must approve the project within 90 days (less than or equal to 150 homes) or 180 days (for more than 150 homes).

October 2023 Signed State Laws Diagram

Twu Diagram: Prepared and shared by Alfred Twu, this helpful illustration shows housing/land use bills signed into law at the end of this year's legislative process. Entitled, 'California Housing Legislation Highlights', Mr. Twu's diagram (Attachment F) is a helpful overview of the adopted laws and provides categories. These are transcribed below. An asterisk (*) shows which laws go into effect January 1, 2024. Staff has highlighted with bold text the laws which may need to be implemented in Title 18. Below list is derived from Twu's chart summary of signed bills:

- Upzoning – SB 713, AB 821, AB 835, **AB 1287**
- Accessory Dwelling Units – AB 671, AB 976, AB 1033, **AB 1332**
- Affordable Housing Streamlining – **SB 4***, SB 406, SB 439, SB 469, AB 1449, AB 1490
- Parking – SB 712*, **AB 894***, AB 1308*, AB 1317*
- Student and School employer Housing – AB 358, AB 1307
- Public Land – SB 240, AB 480
- Affordable Housing Property Tax – AB 84
- Enforcement of Housing Laws – AB 1485, AB 1633
- General Plan Housing Elements – AB 529
- Faster Approvals – AB 356, SB 423, **SB 684**, AB 1114
- Home Ownership – AB 323, AB 572, AB 1508
- Homelessness – SB 91, AB 1285
- Tenant Applications/Fair Housing – AB 12, SB 267, AB 812
- Tenant Protections – AB 548, SB 567, AB 1218, AB 1418, AB 1620
- Mobilehomes/Manufactured Housing – AB 42, AB 318, AB 319
- Preserving Affordable Housing – SB 593
- Social Housing – SB 555
- Senior Housing – AB 839 (financing for elderly residential care)
- Veterans – AB 531, AB 1386
- Farmworking Housing – AB 1439
- Funding – SB 20, SB 341, AB 346, SB 482, AB 519, AB 1319

- Ballot Measures – ACA 1 (lowers voter threshold from 2/3 to 55% to approval local GO bonds and special taxes for affordable housing and public infrastructure projects)
- Utilities and Emergency Preparedness – AB 201 and SB 410

October 2023 Signed State Laws – Townsend Bill Matrices

The City’s legislative analyst (Townsend) informed staff that out of the 1,046 measures passed onto his desk for action by the Legislature, Governor Newsom signed 890 and vetoed 156. The analyst provided staff with multiple matrix attachments. Attachment B is Townsend’s summary of Housing, Land Use and Development Standards laws to help staff understand bills that passed and that will go into effect in January 2024. Staff included three other bill matrices on topics related to Environmental Quality (Attachment C), Energy Utilities and Communications (Attachment D), and Homelessness (Attachment E).

The following state housing, land use, development standards laws will go into effect in January 2024 (see Attachment B), according to Townsend. Staff have selected a subset of the bills in the various Townsend attachments to discuss below.

January 2024 Effective Assembly Bills (24)

AB 42, AB 129, AB 281, AB 318, AB 323, AB 356, AB 434, AB 480, AB 821, AB 894, AB 976, AB 1114, AB 1218, AB 1287, AB 1307, AB 1308, AB 1418, AB 1449, AB 1485, AB 1490, AB 1528, AB 1620, AB 1633, AB 1734.

January 2024 Effective Senate Bills (11)

SB 4, SB 69, SB 91, SB 229, SB 240, SB 267, SB 406, SB 423, SB 706, SB 713, SB 747.

January 2024 – Parking/Transportation Laws

- **AB 894** requires public agencies to allow proposed and existing developments to count underutilized and shared parking spaces toward a parking requirement imposed by the agency. [AB 894](#) (Friedman) requires a public agency to allow entities with underutilized parking to share parking with the public or other entities. Additionally, the bill requires a

public agency to allow shared parking space agreements to count toward meeting automobile parking requirements for a new or existing development.

- **AB 1317** adopts a pilot program that requires property owners of new multi-family residential properties to unbundle the cost of parking from the cost of the housing unit.
- **AB 1308** prohibits a public agency from increasing the minimum parking requirement that applies to a single-family residence as a condition of approval of a project to remodel, renovate, or add to a single-family residence. This requirement only applies if the project does not cause the single-family residence to exceed any maximum size limit imposed by the applicable zoning regulations, though this could override local requirements that require additional spaces be provided.
- **SB712** prevents landlords from prohibiting tenants from owning and charging electronic bikes and scooters in apartments.
- **SB 538** requires the director of the California Department of Transportation to appoint a Chief Advisor on Cycling and Active Transportation, to advise on all issues related to bicycle transportation, safety, and infrastructure.

Housing, Land Use and Development Standards Laws Effective January 2024

- **SB 4** establishes that affordable housing development projects are a ‘use by right’ on land owned by religious institutions or independent higher education institutions
- **AB 281** addresses post entitlement phase permits
- **AB 42** addresses tiny homes/temporary sleeping cabins/fire sprinklers
- **AB 318** and **AB 319** address mobile home law enforcement complaints and violations
- **SB 423** extends and makes minor adjustments to SB 35
- **SB 684** requires local governments to ministerially consider certain subdivision maps for smaller scale residential development.

Density Bonus Laws and Housing Element

- **SB 713:** Clarifies that voter-approved development standards are subject to modification under density bonus incentives, concessions, and waivers.
- **AB 1287:** This bill redefines “maximum allowable residential density” to mean the greatest number of units allowed under the zoning ordinance, specific plan, or land use element of the general plan, removing from that definition a provision stating that the greater density prevails only if the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan or specific plan. This bill also increases the benefits (e.g. number of concessions) available to certain projects under density bonus law.
- **AB 821:** This bill would authorize any resident or property owner to bring an action or proceeding in the superior court to enforce compliance with these provisions within 90 days of the failure of a local agency to amend a zoning ordinance within a reasonable

time of the zoning ordinance becoming inconsistent with the general plan due to amendment to the plan or to any element of the plan.

CEQA Law

- **SB 69:** Local agencies: filing of notices of determination or exemption.

Contracts and Design-Build for Public Works Projects

- [AB 334](#) allows cities to accept bids from design professionals for subsequent phases of public contracts. Previous versions of the law limited the pool of professionals cities were able to accept bids during various project phases.
- [AB 400](#) and [SB 706](#) reform the state's existing design-build laws to allow design-build and progressive design-build delivery methods for local public work projects. This will be a major time and cost saver should the City look into the development of major public works projects and opt to use this process.

Housing Accountability

- [AB 1633](#) now makes it a violation of the Housing Accountability Act for a local government to delay a housing project via the CEQA process by failing to decide of whether a project is exempt from CEQA or failing to adopt certain environmental documents under specified circumstances and timeframes.

Surplus Land

- [AB 480](#) and [SB 747](#) both make numerous changes to the Surplus Land Act including the disposal process, the authority of the Department of Housing and Community Development (HCD), and penalties for violations. Both measures strike a compromise – AB 480 represents a desire for more oversight and requirements for the SLA process to ensure opportunities for affordable housing development are not missed, and SB 747 offers additional clarity to local governments going through the process.

Laws Effective Beginning July 2024 and Later

July 2024:

- **SB 684:**
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB684;
Land Use – Streamlined Approval Processes: Development projects of 10 or fewer residential units on urban lots under five acres. The bill streamlines the approval process for specific types of housing development projects by making it a ministerial task, thereby bypassing discretionary review or hearings. Such projects must result in 10 or fewer parcels, contain 10 or fewer residential units, meet specific size and density criteria, and be located on a lot zoned for multifamily residential development no larger than 5 acres and substantially surrounded by qualified urban uses. All provisions will be operative on July 1, 2024, except for the exemption related to horse-keeping zones,

which becomes operative on January 1, 2024. Staff will follow up with more on this legislation in 2024, but there is further summary of this and other laws in the attachments to this report, including Attachment G prepared and shared with Palo Alto by one of the cities in Santa Clara County.

- **AB 12:** Tiny homes tenancy/security deposits

January 2025:

- **AB 1332** Requires local governments to create a program for the pre-approval of Accessory Dwelling Units (ADUs) by 2025. While this will impose additional duties on the City's planning department, part of the measure requires cities to post pre-approved ADU unit floor plans on their websites. We anticipate this will work to alleviate issues with project delays associated with plans that exceed allowable heights and sizes. Ultimately, this will result in more control over ADU permitting.
- **AB 413** Prohibits a person from parking a vehicle within 20 feet of either side of any marked or unmarked crosswalk, or within 15 feet of any crosswalk where a curb extension is present but permits a local government to allow parking for bicycles or motorized scooters within 20 feet of a crosswalk. The purpose of this bill is to implement a public safety protocol typically referred to as "daylighting." Daylighting seeks to increase pedestrian visibility by prohibiting parking within ~20 feet of intersections and crosswalks.

FISCAL/RESOURCE IMPACT

This informational report has no fiscal impact.

ATTACHMENTS

Attachment A: AB2097 Parking Exemptions Handout

Attachment B: Housing, Land Use and Development Standards Matrix (Townsend)

Attachment C: Environmental Quality Bill Matrix (Townsend)

Attachment D: Energy Utilities and Communications Legislative Matrix (Townsend)

Attachment E: Homelessness Legislative Bill Matrix (Townsend)

Attachment F: Alfred Twu's California Housing Legislation Highlights

Attachment G: Further Summaries of Several Chaptered Laws

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