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CITY COUNCIL STAFF REPORT

Meeting: July 25, 2023

Subject

Consider taking a position in support of, in opposition to, or otherwise regarding Senate Bill (“SB”) 423: Streamlined Housing Approvals: Multifamily Housing Developments

Recommended Action

Consider taking a position in support of, in opposition to, or otherwise regarding SB 423

Reasons for Recommendation

In 2017, the Legislature passed, and the Governor signed, SB 35 (codified as amended at Government Code section 65913.4). SB 35 requires local government agencies that do not satisfy their share of their regional housing needs assessment for specified income categories to approve applications for certain housing development projects ministerially if a project satisfies specified objective planning standards and the applicant includes a specified share of affordable housing units in the project. As a result, the statute preempts local discretionary land use authority and eliminates California Environmental Quality Act (“CEQA”) review of qualifying housing development projects.

Currently SB 35 is scheduled to sunset in 2026. SB 423 ([Attachment A](#)) extends the sunset date of SB 35 from January 1, 2026 to January 1, 2036. In addition, SB 423 makes substantive amendments to SB 35. These amendments include:

- Requiring a local government planning director or other equivalent position to make determinations about compliance with the objective planning standards.
- Applying SB 35 provisions to cities that have not been found in substantial compliance with housing element law by the Department of Housing and Community Development.
- Prohibiting a local government from requiring “[s]tudies, information, or other materials that do not pertain directly to determining whether the development is consistent with the objective planning standards applicable to the development.”

- Providing that if a local government requires units restricted to higher incomes than those required for SB 35 streamlining, then those units meet the affordable housing requirements for purposes of SB 35.
- Modifying specified construction labor requirements.
- Applying SB 35 provisions to developments in the Coastal Zone.

The California League of Cities has requested that member cities oppose SB 423 because it is “top-down, one-size-fits-all legislation” that overrides local control and allows the approval of housing development projects “without regard to the needs of the community, opportunities for environmental review, or public input.” In addition to the League of Cities, at least 27 California cities, including the City of Palo Alto, have taken positions opposing the bill in the Legislature. The City and County of San Francisco, the City of Bakersfield, and various local elected officials have taken positions in support of SB 423. A complete list of organizations supporting and opposing the bill is provided in the attached Bill Summary (Attachment B).

By majority vote, Council may support or oppose SB 423. Staff would then prepare a letter for the Mayor’s signature to be distributed to legislators conveying the City’s official position. No action is required if Council does not wish to take a position on the bill.

Sustainability Impact

Sending a letter supporting or opposing SB 423 would have no sustainability impact. However, because the adoption of SB 423 would extend streamlining provisions for infill housing development, Council should consider whether opposition to the bill is consistent with City sustainability goals and the City’s Climate Action Plan. (E.g., Climate Action Plan 2.0, p. 55 [climate goals supported by “creating a clear pathway for new development so it can align with Cupertino’s greenhouse gas reduction plan”].)

Fiscal Impact

No fiscal impact.

California Environmental Quality Act

Not applicable.

Prepared by: Christopher D. Jensen, City Attorney

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Senate Bill 423

B – Assembly Committee on Natural Resources Bill Summary