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TO: City Of Cupertino, Legislative Review Committee
FROM: Anthony, Jason, And Paul Gonsalves
SUBJECT: Consider adopting a position on SB 897
(Wieckowski) – Accessory Dwelling Units
DATE: **MAY 31, 2022**

Bill Information:

The official text of SB 897 can be found [here](#)¹:

Summary:

Senate Bill 897 would require local agencies to allow accessory dwelling units (ADUs) of up to 25 feet in height (from the current 16 feet). SB 897 would also make various other changes to ADU law. SB 897 would repeal the January 1, 2025, sunset date in existing law, the prohibition on local owner-occupancy requirements, and the existing owner-occupancy requirement in Junior-ADU (JADU) law.

Existing law allows for the construction of ADUs on sites with an existing or proposed single family dwelling, or with an existing (but not proposed) multifamily dwelling. SB 897 additionally would allow for the construction of ADUs along with a proposed multifamily dwelling.

Existing law requires a JADU to be contained within a proposed or existing single-family residence. SB 897 would allow a JADU to be attached to a detached accessory dwelling unit and clarifies that enclosed uses within the residence are considered a part of the proposed or existing single-family residence. Existing law provides that local agencies can impose local building code requirements that apply to detached dwellings, as appropriate. SB 897 strikes “as appropriate” and instead provides that the construction of an accessory dwelling unit shall not constitute an occupancy change under the local

¹ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB897

building code.

Existing law prohibits local agencies from requiring sprinklers in the ADU if they are not required for the primary residence. SB 897 provides that constructing an ADU does not trigger a requirement for fire sprinklers to be installed in the proposed or existing primary dwelling. Existing law requires local agencies to act on an application for an ADU or JADU within 60 days of receiving the completed application, unless the application ADU or JADU is submitted along with a proposed single-family dwelling, in which case the local agency may delay action until it approves or denies the single-family dwelling. SB 897 requires a local agency to instead approve or deny applications within those timeframes and makes changes to conform with the new authority in SB 897 to develop ADUs along with proposed multifamily dwellings.

Existing law allows ADUs to be constructed in the same location and to the same dimensions as an existing structure, such as a garage, without complying with setback requirements. SB 897 requires local ADU ordinances to review and issue a demolition permit for a detached garage that is to be replaced with an ADU at the same time as the application for the ADU.

Existing law prohibits a local agency from establishing requirements for ADU size that would not allow at least an 800 square foot ADU that is 16 feet in height, with four-foot side and rear yard setbacks. SB 897 additionally prohibits requirements for a zoning clearance or separate zoning review for either attached or detached dwellings that does not permit at least an 800 square foot ADU that is at least 25 feet in height with four-foot side and rear yard setbacks. It also prohibits a local agency from requiring a modification of an existing multifamily dwelling that exceeds a height of 25 feet or has side and rear setbacks of less than 4 feet or rejecting an application for an ADU because the existing dwelling meets one of those conditions.

Existing law prohibits a local agency from imposing parking standards on ADUs in specified circumstances, and otherwise restricts the amount and configuration of off-street parking that a local agency may require. SB 897 additionally prohibits parking standards on an ADU when a permit application for an ADU is submitted with an application for a new single-family home.

Support:

According to the author, "California was and continues to be in an ongoing housing crisis since he introduced his first ADU bill in 2016. While California has seen a significant increase in the amount of ADU building permit applications and ADU construction since that time, the lack of housing, and in particular affordable housing, is one of the most significant drivers of institutional and generational poverty cycles and will not be resolved until more housing can be developed. Eliminating any unnecessary barriers to ADU construction is a cost-effective

approach that will allow homeowners to make better use of their property. ADU's can provide additional rental availability in their communities and allow homeowners to create more financial stability for themselves. Additionally, ADU's provide housing options for those homeowners who want to age in place as well as providing flexible living space for their family, friends, or caregivers. SB 897 builds upon previous ADU legislation by addressing some of the remaining barriers to ADU construction and supporting the development of housing that is more affordable by design."

SB 897 is sponsored by the Bay Area Council and has the support of AARP, Abundant Housing LA, All Home, Apartment Association of Greater Los Angeles, California Apartment Association, California Building Industry Association, California YIMBY, CalRHA, Civic Well, Fremont for Everyone, Housing Action Coalition, Meta, MidPen Housing Corporation, Silicon Valley @ Home Action Fund, South Pasadena Residents for Responsible Growth, Southern California Rental Housing Association, SPUR, Turner Center for Housing Innovation, The Two Hundred, YIMBY LA!

Opposition:

SB 897 continues what has been a nearly annual tradition of numerous significant revisions to ADU law. Since 2016, when the Legislature rewrote ADU law, the Legislature has enacted 11 measures that amend ADU law to some degree, including three bills in 2019 that sent local agencies back to the drawing board on their ADU ordinances, including to prohibit local agencies from requiring owner-occupancy until January 1, 2025. The Legislature should wait on further changes to ADU laws until local governments have had a chance finalize their ADU ordinances and the Legislature can evaluate the effect of recent changes on ADU development.

SB 897 is opposed by the League of California Cities as well as the California Association of Code Enforcement Officers, California Association of Realtors, California Building Officials, California State Association of Counties (CSAC), Catalysts for Local Control, City of Bakersfield, City of Los Altos, City of Paramount, City of Torrance, Community Associations Institute, Hills 2000, Livable California, Marin County Council of Mayors and Council Members, Mission Street Neighbors, Rural County Representatives of California (RCRC), and Urban Counties of California.

Status:

SB 897 is on the Senate floor awaiting a vote of the full Senate.

Legislative Platform:

This bill falls under Cupertino's 2022 Legislative Platform in the Housing & Community Development Section Item #2, "Oppose legislation that may reduce municipal authority, with an emphasis on land use policy, local review, and design standards", and #6, "Oppose legislation that would impact the ability of a local municipality to regulate ADUs", on page 7.

Recommended Action:

Adopt an oppose position on SB 897 and authorize the Mayor to send letters to the state legislature.