Date: November 9, 2022

To: Thomas B. Modica, City Manager

From: Christopher Koontz, Director of Development Services

For: Mayor and Members of the City Council

Subject: 2022 State Housing and Development Legislation

Members of the City Council, the press, and the community have all recently inquired about the specific impact of recent legislation on the building and development review process in the City of Long Beach (City). This memorandum provides information about State legislation that was enacted in 2022 related to housing and development. As in previous legislative sessions, several key themes continued to dominate policy discussions, including expanding the development of accessory dwelling units and affordable housing, incentivizing density through modifications to the State’s density bonus program, and streamlining development by modernizing permitting processes at the local level. The bills outlined in this memo have all passed the legislative process, been signed by the Governor, and are effective January 1, 2023.

Accessory Dwelling Units

Building on efforts in recent legislative sessions to streamline development of accessory dwelling units (ADUs) and reduce permitting barriers, the State Legislature passed a number of key proposals to clarify aspects of ADU law, including Assembly Bill 2221 (Quirk-Silva), Senate Bill 897 (Wieckowski), and Assembly Bill 916 (Salas).

The legislation increases the minimum ADU height limit that a local agency may impose, as follows:

- For ADUs attached to a primary dwelling, the minimum height limit has increased from 16 to the lower of 25 feet or the local agency’s applicable height limit. It also provides that local governments can limit attached ADUs to no more than two stories tall.

- For detached ADUs within a half-mile of a major transit stop or high-quality transit corridor, the legislation increases the minimum height limit from 16 feet to 18 feet. Furthermore, it requires that a local agency must allow an additional two feet in height to accommodate a roof pitch on an ADU that is aligned with the roof pitch of the primary dwelling unit.
• For detached ADUs that do not meet the above criteria but are on a lot that has an existing multifamily, multistory dwelling, the legislation increases the minimum height from 16 feet to 18 feet.

In addition to increasing minimum height limits, the legislation clarifies that a local agency must “approve or deny” a permit for an ADU or a junior ADU (JADU) within a six-day timeframe, instead of simply “acting” on those permits as specified by current State law. Some jurisdictions have used intermediary “actions” to bypass the review timelines proscribed by State law. Further, if a local agency denies an application, the permitting agency is required to provide in writing a set of comments to the applicant listing defective or deficient items in the application and how those issues can be remedied.

The legislation also aims to make it easier to build ADUs by prohibiting local governments from imposing front setback standards that make it impossible to build a new ADU and by clarifying that the standards imposed on ADUs must be objective. The construction of an ADU does not trigger a requirement for fire sprinklers in the proposed or existing primary dwelling, and local permitting agencies cannot require as a condition of approval the correction of a violation on the primary dwelling unit, unless it is necessary to protect health and safety.

Last, the legislation prohibits local agencies from requiring a public hearing as a condition for reconfiguring space to increase the bedroom count within an existing dwelling unit, where applications seek to add no more than two additional bedrooms. The law, however, expressly allows local agencies to require a public hearing for a proposed project that would increase the number of dwelling units within an existing structure.

• **Long Beach Impacts:** Long Beach is already in compliance with the new rules for single-family ADUs as well as the approval and turnaround requirements for JADUs. This legislation will have a minor impact on the processing of multifamily ADUs and the Development Services Department will update all relevant application materials and guidelines prior to the January 1, 2023, effectiveness date of the legislation.

ADU laws at the State level underwent a major overhaul in 2019 and 2020. The City’s existing ADU ordinance is now superseded in part and effective in part, leading to confusion and inefficiency for staff and applicants. Additionally, the City’s 2017 ADU Ordinance only covers single-family ADUs and thus multifamily ADUs are covered exclusively through State law.

In order to facilitate ADU development and needed housing growth, the Development Services Department anticipates it will complete the City Council directed ADU streamlining work and pre-approved ADU plans in early calendar-
year 2023 and will begin a complete update of the ADU Ordinance later in 2023 for completion in 2024.

Affordable Housing

Senate Bill 679 (Kamlager), enacted on September 28, 2022, establishes the Los Angeles County Affordable Housing Solutions Agency (LACAHSA), a countywide board with authority to utilize financing tools to fund affordable housing development and preservation, as well as renter assistance. The legislation establishes the governance and administrative structure of LACAHSA, including a 22-member board and a citizens’ oversight committee. LACAHSA has the authority to place funding measures on the ballot and can raise new revenue through other funding mechanisms such as a parcel tax, business license tax, document transfer tax, and the issuance of bonds to preserve and expand affordable housing and renter protections. LACAHSA does not have the authority to regulate or enforce land use decisions, nor to acquire property by eminent domain.

While Senate Bill 679 authorized the creation of LACAHSA, it did not appropriate funding for the purpose of expanding affordable housing and renter support in Los Angeles County. Once the LACAHSA board is setup, they will have to identify funding mechanisms such as a ballot measure to generate revenues. When funding is identified, 70 percent will be allocated geographically based on jurisdictions’ pro rata lower income housing need and 30 percent will go to LACAHSA for affordable housing and rental assistance programs.

- **Long Beach Impacts:** On August 17, 2021, the City Council voted 8-0 to support this bill, emphasizing the need for a regional approach to funding affordable housing development. This bill creates a new countywide agency with the authority to raise funds for renter support programs and affordable housing preservation and production. The City will have a dedicated seat on the governing board of the agency, determined by the Mayor, and will receive direct allocations to achieve greater levels of affordable housing production and tenant assistance once funding is made available.

Density

The State Density Bonus Law provides incentives for developers to increase density by reducing development costs and waiving certain development standards and requirements in exchange for providing affordable housing. This policy is amended regularly through legislative action to identify additional opportunities to incentivize housing development and affordable units. This year, three key proposals were enacted to modify the State Density Bonus Law: Assembly Bill 2334 (Wicks), Assembly Bill 1551 (Santiago), and Assembly Bill 682 (Bloom).

The legislation allows a housing development project in designated counties, including Los Angeles County, to receive added height and density allowances if the project is in
an urbanized very-low vehicle travel area, defined as urbanized areas where the existing residential development generates vehicle miles traveled (VMT) per capita that is below 85 percent of regional or city VMT per capita. Specifically, 100 percent affordable housing developments can earn an enhanced density bonus and height increase of up to three additional stories, or 33 feet in areas with low VMT traveled. The legislation also clarifies that if the density under the zoning Ordinance is inconsistent with the density allowed under the land use element, the greater density shall prevail.

The legislation also extends the expired State Density Bonus Law program for commercial developments from January 1, 2022, to January 1, 2028. In order to qualify, a commercial developer must partner with a housing developer or provide housing that contains 30 percent low-income units or 15 percent very low-income units. The development bonus granted to the commercial developer includes incentives such as (1) up to a 20-percent increase in maximum allowable intensity in the General Plan; (2) up to a 20-percent increase in maximum allowable floor area ratio; (3) up to a 20-percent increase in maximum height requirements; (4) up to a 20-percent reduction in minimum parking requirements; (5) use of a limited-use/limited-application elevator for upper floor accessibility; and (6) an exception to a zoning Ordinance or other land use regulation.

Last, recent legislation creates a new category of “shared housing” projects eligible for benefits under the State Density Bonus Law. A shared-housing building is defined as a residential or mixed-use structure with five or more housing units and one or more common kitchen and dining area designed for permanent residence of more than 30 days by its tenants. A shared-housing building qualifies for State Density Bonus Law benefits if it contains 10 percent lower-income units; five percent very low-income units; is a senior housing development; or 100 percent of all the units are for lower-income households. The legislation prohibits jurisdictions from requiring minimum unit size requirements or minimum bedroom requirements for an eligible shared-housing building project.

- **Long Beach Impacts:** The legislation is in line with the City’s [Enhanced Density Bonus Ordinance](#) used as a tool to increase the amount of housing units produced in Long Beach for people of all income levels.

**Parking Reform**

Assembly Bill 2097 (Friedman), enacted on September 22, 2022, prohibits public agencies from imposing minimum parking requirements on residential, commercial, or other developments located within a half-mile of public transit. The legislation would allow a city or county to impose minimum parking requirements on developments located within a half-mile of public transit if the city or county makes written findings within 30 days of receiving a complete project application that the inability to impose parking requirements would have substantial negative impacts on: (1) a jurisdiction’s ability to meet its regional housing needs for low- and very low-income households; (2) a jurisdiction’s ability to meet special housing needs for the elderly or persons with disabilities; or (3) existing residential or commercial parking facilities located within a half-mile of the housing development project. The exception does not apply to housing development projects that (1) dedicate
a minimum of 20 percent of the units to very low-, low- or moderate-income households, students, the elderly, or persons with disabilities; (2) contain fewer than 20 housing units; or (3) is subject to other applicable parking requirements by State law.

- **Long Beach Impacts:** The legislation will provide developers with the flexibility to determine the parking needs of development projects near public transit, encourage alternative forms of transit (public transportation, biking, etc.), decrease the costs associated with housing production, and decrease air pollution, noise pollution, and greenhouse gas emissions in Long Beach. The exceptions in the bill largely do not apply to Long Beach.

The area of impact is illustrated in Attachment A – Parking Incentive Areas. The Development Services Department has already adjusted its procedures to comply with the bill and it has had unanticipated positive impacts in allowing vacant commercial storefronts to be leased and reoccupied without difficult and sometimes impossible new parking calculations and requirements.

The legislation will have numerous unintended consequences that may be best ameliorated through a local implementing Ordinance. For example, a vacant storefront near Del Amo and Long Beach Boulevard would qualify under Assembly Bill 2097 and could change to any use without the necessity of new parking. An almost identical storefront on Market Street, not far from the first and still on Long Beach Boulevard would not qualify and depending on the use may require additional parking to re-occupy the storefront. If no parking can be created that second storefront would remain vacant.

The legislature also applied Assembly Bill 2097 in the Coastal Zone but did not exempt projects in the Coastal Zone from Coastal Act and Local Coastal Program provisions. This places the City in the position of instructing businesses that no parking is required for their customers but parking is required for non-customer generalized visitors to the Coastal Zone. These are planning and economic development issues that can be solved by addressing what is called change of use parking requirements, and by adjusting the Assembly Bill 2097 map to cover full streets and corridors rather than circular portions of blocks. The City anticipates that a local Ordinance to address these issues will be drafted in calendar-year 2023 and presented to the City Council in 2024.

The City anticipates that most projects will continue to voluntarily provide some parking. This is needed for the residents of these projects and in the case of market-rate development often a requirement of investors and lenders to the project. Parking is a real issue in Long Beach. The Development Services and Public Works Departments will continue to work together to create a safe and inviting pedestrian, cycling and transit environment in Long Beach. We will also continue to maximize the usability of public and private parking that exist in Long Beach with every tool available ranging from allowing the use of public parking and beach parking lots for residents at night, adjusting red curbs to maximize street
parking, adding diagonal parking where possible and exploring public/private partnerships to maximize the use of existing privately owned parking lots. Ultimately the pedestrian work and parking work comes together to support the individual choices Long Beach residents make on how to travel and to create a better city for everyone.

Planning

Senate Constitutional Amendment 2 seeks to remove a barrier to affordable housing production by repealing Article 34 of the California Constitution, which requires development, construction, or acquisition of publicly funded, low-rent housing projects to be approved by a majority of voters in a city or county. Proponents argue that the measure would make it cheaper to build publicly-funded affordable housing projects and lead to more equitable housing outcomes. Having passed the State Legislature, the measure will be placed on the 2024 ballot.

- **Long Beach Impacts:** This legislation has no impact on Long Beach unless the measure is approved by voters in 2024. If the voters enact that measure it would enable both the Long Beach Community Investment Corporation and the City’s Housing Authority to acquire properties, even temporarily for purposes of assignment or sale to affordable housing operators and provide greater flexibility in the funding of individual projects. Without passage of this measure, should the City wish to expand its operations to include the purchase of housing assets or the funding beyond certain thresholds of housing projects, a local measure would be required with direct election costs up to $9 million dollars for a special election or less for a general election depending on other measures on the ballot.

Streamlining

In an effort to create much-needed new housing units aimed at helping middle- and low-income Californians, the State Legislature passed several key proposals to streamline the housing approval process in California, including Assembly Bill 2011 (Wicks), Senate Bill 6 (Caballero), and Assembly Bill 2234 (Rivas).

Assembly Bill 2011, enacted on September 28, 2022, provides a ministerial, California Environmental Quality Act exempt streamlined approval process for affordable housing projects in commercial zones and for mixed-income housing projects along commercial corridors. The legislation also requires contractors with a development project of 50 or more housing units to pay prevailing wages, participate in apprenticeship programs, and provide health care benefits to construction employees. Assembly Bill 2011 sunsets in 2033.

Senate Bill 6, enacted on September 28, 2022, establishes housing as an allowable use on any parcel zoned for office, retail, or parking uses. The legislation also requires applicants to commit to both prevailing wage and a skilled and trained workforce. Additionally, the legislation allows project applicants to invoke the Housing Accountability
Act (HAA) to limit local discretion to deny or condition approval. Senate Bill 6 sunsets in 2033.

Assembly Bill 2234, enacted on September 28, 2022, requires local permitting agencies to provide information online related to post entitlement phase permits for housing development projects. The legislation also establishes strict timelines and potential HAA liability for local permitting agencies when issuing post-entitlement permits. Specifically, local permitting agencies must respond within 15 business days after an agency receives an application by identifying any specific information from the published checklist that was missing from the application. Furthermore, local permitting agencies must complete their review of any complete application within 30 business days (for developments with 150 units or fewer) or 60 days (for developments with more than 150 units). Under Assembly Bill 2234, failure to comply with the specified timelines is deemed a violation of the HAA and is subject to potential fines.

- **Long Beach Impacts:** These bills may help create new housing units for low- and middle-income households in underutilized commercial sites in Long Beach. The legislation provides Long Beach the option to expedite housing development in office, retail, and parking sites throughout Long Beach. The City also supported Assembly Bill 2234, given its alignment with the City’s current development permitting process and plans for creating an online permitting system option for customers. The City is currently in the process of developing online permitting software for housing development, and the legislation provides sufficient time for the completion of this project prior to State requirements. These efforts will help modernize permitting systems and ensure the City facilitates housing development in an efficient manner.

The applicability of Assembly Bill 2111 and Senate Bill 6 are limited in Long Beach as most commercial areas of Long Beach already allow mixed-use development. The impacted commercial corridors are identified in Attachment B – Community Commercial PlaceType Map. In 2017, the legislature adopted and the governor signed Senate Bill 35 a housing streamlining bill with similar wage requirements to Assembly Bill 2111 and Senate Bill 6. While that law was and is the subject of much public debate and controversy, it has only been used in Long Beach twice, both for 100 percent affordable projects that were not controversial in nature. While these bills may be impactful in other jurisdictions around the state, it is likely that Assembly Bill 2111 and Senate Bill 6 will simply not be used in Long Beach due to their wage provisions and the otherwise pro-housing nature of zoning in Long Beach which does not necessitate their use.
If you have any questions, please contact Tyler Bonanno-Curley, Manager of Government Affairs, at (562) 570-5715, or Christopher Koontz, Director of Development Services, at (562) 570-6288.

ATTACHMENTS:  A – PARKING INCENTIVE AREAS  
B – COMMUNITY COMMERCIAL PLACETYPE MAP

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