City of Camarillo

Planning Commission
AGENDA REPORT COVER

DATE:	December 5, 2023
TO:	Planning Commission
FROM:	David Moe, Interim Director of Community Development
SUBMITTED BY:	James Fowler, Senior Planner
SUBJECT:	Proposed Zoning Ordinance Amending Certain Sections and Adding Chapter 19.37 to Title 19 of the Camarillo Municipal Code

PROJECT INFORMATION SUMMARY

In 2022, the State Legislature passed 42 housing-related bills, which were signed into law. These bills pertained to Accessory Dwelling Unit (ADU) regulations, parking requirements, by-right or streamlined approvals of certain qualifying housing projects, additional reporting requirements, and more. In response, staff completed certain necessary updates to the Camarillo Municipal Code (CMC). However, seven bills require additional updates to the CMC. This Agenda Report outlines the seven remaining bills and includes staff's proposed amendments to the CMC, consistent with state law. Additionally, in response to a letter dated June 19, 2023 from the State Department of Housing and Community Development (HCD), staff's proposing several changes to the CMC as it relates to Urban Dwelling Units and lot splits.

PUBLIC NOTICE

A Notice of Public Hearing has been advertised for the Planning Commission meeting of December 5, 2023, posted at Camarillo City Hall, as well as on the City's website (www.cityofcamarillo.org), and an advertisement published in a newspaper of general circulation for the area (Camarillo Acorn).

DISCUSSION

Environmental Review

The City reviewed the environmental impacts of the project under the California Environmental Quality Act (Public Resources Code §§ 21000, et seq. "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Regs. §§ 15000, et seq., the "CEQA Guidelines"). Senate Bill 6 (SB 6), Assembly 2011 (AB 2011), and Senate Bill (SB 9), explicitly exempt ordinances that implement their provisions. CEQA Guidelines § 15060(c) exempts from further review any activity that will not result in a direct or reasonably foreseeable indirect physical change in the environment. The proposed Ordinance implements the provisions of SB 6, AB 2011, and SB 9, and is for general policies and procedure making. Accordingly, it can be seen with certainty that there is no possibility that the proposed Ordinance may have a significant effect on the environment and this activity is exempt from further review pursuant to CEQA Guideline § 15060(c). Further, the Resolution is also exempt from review under CEQA Guidelines § 15061(b)(3) because the Resolution is for general policies and procedure-making. It can be seen with certainty that there is no possibility that the proposed Resolution may have a significant effect on the environment.

The following bills require updates to Title 19 of the Camarillo Municipal Code:

Senate Bill 6 (SB 6) Residential Development in Commercial Zones – SB 6 adds a new section to the Government Code that deems a housing development project permissible in commercial zones without the need for rezoning. Housing development projects include 100% residential projects, as well as mixed-use projects with at least 50% of the square footage dedicated to residential use.

SB 6 requires a housing development project to meet the following standards:

A. Meet the following project site requirements:
    1. Located within a zone where retail, office, or parking uses are principally permitted;
    2. Does not adjoin a site with more than 1/3 of the square footage dedicated to industrial use;
B. Meet or exceed the applicable density deemed appropriate to accommodate lower-income housing (taken from Regional Housing Needs Allocation (RHNA) Housing Element site provisions Gov. Code. 65583.2(c)(3)(B));
C. Comply with public noticing, comment, and hearing requirements that would apply to development in that zone;
D. Comply with local zoning, parking, design, and other ordinances, local code requirements, and procedures for the closest zone that allows for the density required under "B." For the City's purposes, these will be zones that allow 30 units per acre development;
E. Comply with all other objective local requirements for a parcel, other than those that prohibit residential uses or allow lower density residential use, such as impact fee requirements and inclusionary housing requirements.

There are no affordability requirements under SB 6, only density considerations. Applicants must commit to prevailing wages and "skilled and trained workforce" requirements (with an exemption from the skilled and trained workforce requirement for projects with fewer than two bids).

The City may exempt a parcel from SB 6, however upon exemption, must allow by-right development to occur on another site where such development would normally not be allowed at a residential density equivalent to the exempted site. For example, if 30 potential housing units are lost from SB 6 exemptions, those 30 units must be compensated by allowing 30 additional units on a different site where it would normally not be allowed.

In addition, SB 6 projects are still subject to the California Environmental Quality Act and Density Bonus Law.

SB 6 developers are required to provide written notice of a pending SB 6 application to all commercial tenants on the proposed project site and provide relocation assistance to commercial tenants based on a complex series of criteria articulated in the bill.

1. **Assembly Bill 2011 (AB 2011) Residential Development in Commercial Zones -** AB 2011, creates new ministerial streamlined approval processes for two types of projects which must meet various parameters: (1) 100% affordable housing projects in commercial zones; and (2) mixed-income housing projects along commercial corridors. The new law also imposes prevailing wage requirements for these new streamlined projects.

   A. <u>100 % Affordable Housing Projects in Commercial Zones</u>

      AB 2011 creates a new ministerial streamlined development application review process for 100% affordable housing projects in commercial areas. The rules state in summary, that to qualify the project must:

      1. Be located in a zone where office, retail, or parking are a principally permitted use;
      2. Be a multifamily housing development project that meets or exceeds the applicable density to accommodate housing for lower income households under state law or the density allowed by the existing zoning designation, whatever is higher. For the City, this means that the allowed density will always be 30 units per acre;
      3. Be comprised 100% of affordable residential units, excluding manager's units, and subject to deed restrictions of 55 years;
      4. Not be on a site located in certain types of farmland, wetlands, certain fire severity zones, hazardous waste sites, earthquake fault zones, flood hazard areas, floodways, conservation zones, or habitat protection areas;
      5. Not be on a site or adjoined to any site where more than a third of the square footage of the site is dedicated to industrial use;

6. Have none of the housing on the site located within 500 feet of a freeway;
7. Meet applicable statutory requirements concerning consistency with any local specific plans.

Further, a development proponent must also complete a Phase I Environmental Assessment, and if a recognized environmental condition is found, undertake a preliminary endangerment assessment to assess risks. Hazardous effects must be mitigated to a level of insignificance.

For qualifying projects, the proponent needs to meet applicable objective zoning, subdivision, and design review standards. These applicable standards are the local objective zoning requirements for the project site. If the project is in a zone which already allows multi-family residential use, the proponent must adhere to the local objective requirements for that zone. Alternatively, if the local zone does not allow multi-family residential use, the proponent should follow the standards for the nearest zone that does. The applicable standards are those in effect at the time of the application.

AB 2011 imposes deadlines to respond to project proposals submitted for streamlined review. The City must notify a proponent if a project conflicts with objective planning standards within 60 days for a development of 150 housing units or less, or 90 days for larger projects. If the deadline is missed, the project is deemed to satisfy these standards.

The bill permits design review by the Planning Commission, but this review is again limited to objective standards. Design review must be completed within 90 days for projects of 150 housing units or less, and 180 days for larger projects.

Further, if the development is consistent with all objective subdivision standards in the local subdivision ordinance, an application for a subdivision pursuant to the Subdivision Map Act is CEQA-exempt.

The City may exempt particular parcels from AB 2011. However, the City must then allow AB 2011 to occur on an equivalent site that would not otherwise be eligible for AB 2011 or allow an even higher density development on another site that already allows AB 2011. This could be done at an equivalent rate; so, if exempting a site prevents a potential 30 units, allowing AB 2011 at another site must make up for that potential 30 units.

The law also requires additional findings that the development of these alternative parcels will not result in a net loss to the total potential residential density in the jurisdiction, not result in the net loss of the potential residential density of housing affordable to lower income households in the jurisdiction and will be affirmative of furthering fair housing.

AB 2011 prohibits the City from imposing any additional requirements, increased fees, or inclusionary housing requirements that apply to a project solely or partially on the basis that the project is eligible for streamlined review under the new law.

B. Mixed income housing projects along commercial corridors

AB 2011 also creates a new ministerial streamlined development application review process for mixed income rental housing development projects along commercial corridors.

The rules state in summary that to qualify the project must:

1. Be a multi-family rental housing development project meeting certain minimum density, height, and setback requirements specified by AB 2011;
2. Be located in a zone where office, retail, or parking are a principally permitted use;
3. Be on a site which abuts a “commercial corridor” and has a frontage along the commercial corridor of at least 50 feet;
4. Have the rental developments allocate either 8% of the units for very low-income households, with an additional 5% designated for extremely low-income households, or 15% of the units must be designated for lower income households;
5. Have the ownership housing allocate either 30% of the units at an affordable housing cost to moderate-income households, or 15% of the units must be offered at an affordable housing cost to lower income households;
6. Feature affordable units that have the same bedroom and bathroom ratio as market rate units, be equitably distributed within the project, and have the same type of quality of appliances, fixtures, and finishes;
7. Not be on a site or adjoined to any site where more than a third of the square footage of the site is dedicated to industrial use;
8. Not be on a site located in certain types of farmland, wetlands, certain fire severity zones, hazardous waste sites, earthquake fault zones, flood hazard areas, floodways, conservation zones, or habitat protection areas;
9. Not be a project which requires the demolition, or otherwise interferes with of certain types of existing housing, or historic structures;
10. Not be on a parcel which is zoned for housing but not for multi-family residential use;
11. Meet applicable statutory requirements concerning consistency with local strategic plans;
12. Have none of the housing on the site located within 500 feet of a freeway;
13. Provide notice and relocation assistance to certain existing commercial tenants.

A development proponent must also complete a Phase I Environmental Assessment, and if a recognized environmental condition is found, undertake a preliminary

assessment to assess risks. Hazardous effects must be mitigated to a level of insignificance.

For qualifying projects, the proponent needs to meet applicable objective zoning, subdivision, and design review standards. These standards are based on the existing requirements for the closest zone in the City that allows multi-family residential use at the level of density set forth in AB 2011. If there is no such zone, then the standards in the zone which allows the highest residential density within the City will apply.

The same deadlines discussed above for consideration of an application for affordable housing projects apply to applications submitted for commercial corridor projects. The same rules concerning design review apply as well. Applications for commercial corridor projects enjoy the same CEQA project status and exemption as affordable housing projects do, as discussed above.

Proposed commercial corridor projects are eligible for a density bonus, incentives or concessions, waivers or reductions of development standards. No parking beyond EV, bicycle, and disabled spaces can be required for commercial corridor projects. The City can exempt a parcel from AB 2011, so long as it then allows for equivalent additional density through the AB 2011 process elsewhere. The requirements are the same for commercial corridor projects as they are for affordable housing projects discussed above.

As with affordable housing applications, AB 2011 prohibits the City from imposing additional requirements, increased fees, or inclusionary housing requirements that apply to a commercial corridor project solely or partially on the basis that the project is eligible for streamlined review under the new law.

C. Prevailing Wage Requirement

AB 2011 also includes requirements that construction workers on AB 2011 projects be paid a prevailing wage. Additional requirements are imposed for development projects of 50 or more housing units. On these larger projects, the bill requires project proponents to ensure that certain health care benefits are provided to construction workers by the contractor, and that the contractor is participating in an apprenticeship program or requesting dispatch of apprentices from a state-approved apprenticeship program.

2. **Assembly Bill 2221 (AB 2221) Accessory Dwelling Units –** This bill makes substantial changes to the existing law on Accessory Dwelling Units (ADUs) / Junior Accessory Dwelling Units (JADUs) and provides various clarifications.

The existing law requires local agencies to "act on" an ADU application within 60 days of issuing a "completeness determination," and if the agency does not, an ADU application is automatically deemed approved. AB 2221 expressly requires agencies to "approve or deny" an ADU application within 60 days of the completeness determination. Under AB 2221, agencies that deny a JADU or ADU application must provide a full set of comments to the applicant with a list of items that are deficient and a description of how the application can be remedied by the applicant within the 60-day time-frame.

AB 2221 specifies that ADU Ordinances can only impose objective standards on ADUs and standards that prevent adverse impacts on any real property that is listed in the California Register of Historical Resources. Such standards must be "standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal."

The bill clarifies that the construction of an ADU (attached or detached) cannot trigger a requirement to install fire sprinklers in an existing multi-family dwelling.

Finally, AB 2221 changes the law so that front setback requirements cannot be used to prohibit construction of an ADU when there is no other alternative besides the front setback area that allows for construction of an 800-square-foot ADU that meets height limit requirements and complies with four-foot side and rear setbacks.

3. **Senate Bill 897 (SB 897) Accessory Dwelling Units -** This bill amends the existing law regarding ADU height and a local agency's ability to regulate these dwellings.

   This law prohibits local agencies from denying an application to create an ADU due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the ADU. This includes corrections to the primary dwelling unit unless the correction is necessary to protect health and safety.

   SB 897 prohibits the City from imposing any parking standards on an ADU that is included in an application to create a new single-family dwelling unit or a new multi-family dwelling on the same lot, provided that the ADU meets other specified requirements.

   SB 897 increases ADU height limits to:

   1. 18 feet for a detached ADU on a lot within one-half mile walking distance of a major transit stop or high-quality transit corridor, with an allowance of an additional two feet to accommodate a roof pitch aligned with the primary dwelling unit.
   2. 18 feet for a detached ADU on a lot with an existing or proposed multi-family, multi-story dwelling.
   3. 25 feet or the height limit under the local zoning ordinance, for an ADU attached to a primary dwelling, although a local agency can ensure the ADU does not exceed two stories.

   Lastly, SB 897 now clarifies that two detached ADUs may be constructed on lots with proposed, rather than existing, multi-family dwellings.

4. **Assembly Bill 2334 (AB 2334) Density Bonus Law -** AB 2334 expands the Density Bonus Law to allow 100% affordable housing projects to receive unlimited density and a height increase of 33 feet or three stories if located within qualifying "very low vehicle travel areas" in 17 qualifying counties, including Ventura County. "Very low vehicle travel area" is defined as an "urbanized area where the existing residential

development generates vehicle miles traveled [(VMT)] per capita that is below 85% of either regional VMT per capita or city VMT per capita."

AB 2334 expands the definition of "development standard" to include a minimum lot area per unit requirement. It also modifies the definition of "maximum allowable residential density" to account for density allowed in a specific plan. The bill establishes that where the density allowed in the zoning ordinance is inconsistent with that allowed in the land use element of the general plan or specific plan, the higher density prevails, and to set forth how density is determined.

AB 2334 prohibits the imposition of any vehicular parking standards if the development is for a project where 100% of all units are deed restricted for affordability and meet one of the following criteria:

1. The development is within a half mile of the Metrolink station;
2. The development is a qualifying senior community;
3. The development is a special needs or supportive housing development.

5. **Assembly Bill 682 (AB 682) Density Bonus Law -** AB 682 expands the existing state Density Bonus Law program to apply to shared housing projects that provide qualifying percentages of affordable units. Shared housing projects are defined as residential or mixed-use structures with five or more shared units designed for permanent residential use of more than 30 days (i.e., dwellings that include a bathroom and kitchenette features) that share one or more common kitchens and dining areas.

   This bill prohibits the City from requiring any minimum unit size requirements or minimum bedroom requirements in conflict with California Residential Code (Part 2.5 of Title 24 of the California Code of Regulations).

6. **Assembly Bill 2097 Reduced Parking Requirements –** AB 2097 prohibits the City from imposing or enforcing any minimum parking requirements on a residential, commercial, or other development project located within one-half mile from a qualifying public transit stop. The Metrolink station is currently the only qualifying public transit stop within the City. The City may still require parking spots for electric vehicle charging and parking spots for persons with disabilities. Additionally, AB 2097 still allows the City to impose parking requirements on event centers, hotels, motels, bed and breakfast inns, and other transient lodgings. A project is considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

   Staff has developed the half-mile radius map (Attachment 4) from the Metrolink station in consultation with the City Attorney's office and in consideration of relevant case law. The precedent set so far is that the half-mile radius should be measured from the entire parcel, including the parking lots, and not just the actual train/transit platform.

A city or county may only impose or enforce minimum parking requirements if the local government demonstrates by a preponderance of evidence in the record, that not imposing parking requirements will have a substantially negative impact, on any of the following:

a. The City's or County's ability to meet its share of the regional housing need for low- and very low-income households.
b. The City's or County's ability to meet any special housing needs for the elderly or persons with disabilities, as specified.
c. Existing residential or commercial parking within one-half mile of the housing development project.

This exception may not be used by a city or county if:

a. The development dedicates a minimum of 20 percent of the total number of housing units to very low-, low-, or moderate-income households, students, the elderly, or persons with disabilities.
b. The development contains fewer than 20 housing units.
c. The development is subject to parking reductions based on the provisions of any other applicable law.

The City Attorney's office has explained that "a substantially negative impact, supported by a preponderance of the evidence in the record," is a very high standard to fulfill.

Changes to the Municipal Code – The bills outlined above severely limit the City's ability to tailor these new laws to the City's specific needs. Attached are the proposed redline changes to Title 19 (Zoning) of the Camarillo Municipal Code (Attachment 2). The areas where the City has some discretion to adapt these new laws to the City's local needs have been highlighted below.

- SB 6 and AB 2011 essentially only allow the City to impose objective standards that already apply to existing zones. If the City wishes to develop additional objective standards that apply to SB 6 and AB 2011, the City would need to change the existing standards for other residential developments and applications. In doing so, the City would necessarily give up a large amount of discretion and local control, since many of the City's standards are not objective. Therefore, the redline changes are limited to adopting state law by reference.
- Similarly, AB 2221 and SB 897 change the ADU law, but do not allow the City an ability to tailor these changes to specific local needs. Despite AB 2221's requirement that ADU's are allowed to infringe in the normally required front setback in cases where an 800-square-foot ADU cannot fit elsewhere on a property, the redline changes require that the front setback be maintained to the maximum extent possible in all circumstances. In instances where a normal 20-foot front setback cannot be maintained, a 19-foot front setback will be required. Additionally, some changes are proposed to the City's ADU parking standards to mirror current state ADU parking law.

- AB 2097 also makes changes with minimal flexibility for local adaptation. The proposed redlines change the existing code to the degree required by state law.
- AB 2334 and AB 682 are part of a long series of changes to the State Density Bonus Law. The State Density Bonus Law lays out a minimum series of requirements cities must adhere to. Cities may choose to be more permissive than state law, but not less permissive. In order to reduce the administrative burden of amending the CMC on an almost yearly basis as it relates to the State Density Bonus Law (without the City having the ability to insert additional local controls), staff recommends amending the CMC to directly reference state law as it may be amended from time to time instead of repeating state law in the CMC.

After reviewing the CMC sections concerning Urban Dwelling Units (created in response to SB 9), HCD has directed the City to amend the CMC. The changes staff are proposing in response to HCD's letter, are:

a. Clarifying the maximum number of units that may be developed on a single lot when constructing an urban dwelling unit or undergoing an urban lot split.
b. Removing the 700 square foot minimum size requirement for an urban dwelling unit.

The maximum number of units that may be developed on a single-family zoned lot is four when counting an accessory dwelling unit, junior accessory dwelling unit, urban dwelling unit, and primary residence. However, when splitting the lot under an urban lot split, a property owner is limited to a maximum of two units on each lot.

In addition to the above changes which the City has agreed to, HCD cited other changes they suggested the City should make. However, it is unclear whether the City is required to make these additional changes under state law. City staff has requested additional clarification from HCD on the statutory authority and legal underpinning of why these additional changes must be made and additional information on what objective standards the City is allowed to adopt under SB-9.

ECONOMIC DEVELOPMENT AND LAND USE COMMITTEE ("EDLUC") REVIEW

The EDLUC reviewed the proposed AB 2097 Zoning Ordinance Amendment during its regular meeting on June 22, 2023, and the other proposed Zoning Ordinance Amendments during its regular meeting on August 24, 2023. The EDLUC expressed their disappointment with the new state laws but suggested no changes to the proposed Zoning Ordinance Amendments. Since EDLUC, staff made additional revisions to the proposed density bonus chapter as outlined above.

SUGGESTED ACTION

1. Find that the proposed Ordinance is exempt from the California Environmental Quality Act ("CEQA") under the State CEQA Guidelines §§ 15060(c). Further, the Resolution is also exempt from review under CEQA pursuant to CEQA Guidelines § 15061(b)(3).

2. Adopt a resolution recommending approval to the City Council of an Ordinance adding to and amending certain sections of Title 19 of the Camarillo Municipal Code to implement state law related to residential development in commercial zones, accessory dwelling units, density bonus, parking requirements, and urban dwelling units.

ATTACHMENTS

1 – Resolution
2 – Title 19 Zoning Code Amendments Redline
3 – Bills that Require Code Updates
4 – AB 2097 Affected Area Map
5 – July 27, 2023 Letter to HCD Regarding SB 9 Response
6 - Public Hearing Notice