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June 13, 2016

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Sachi A. Hamai
Chief Executive Officer

MOTION TO DIRECT THE CHIEF EXECUTIVE OFFICER AND THE COUNTY'S SACRAMENTO ADVOCATES TO OPPOSE THE GOVERNOR'S PROPOSED TRAILER BILL TECHNICAL MODIFICATIONS ENTITLED "STREAMLINING AFFORDABLE HOUSING APPROVALS," UNLESS AMENDED TO INCLUDE SPECIFIED AMENDMENTS (ITEM NO. 18, AGENDA OF JUNE 14, 2016)

Item No. 18 on the June 14, 2016 Agenda is a motion by Supervisors Kuehl and Solis directing the Chief Executive Officer and the County's Sacramento legislative representatives to oppose the Governor's proposed trailer bill technical modifications entitled "Streamlining Affordable Housing Approvals" unless amended to expedite entitlement and environmental reviews, rather than eliminate these reviews, in developments that provide at least 25 percent of the total housing units to households that are very low income or below.

Approval of this motion is consistent with Board-approved policy to oppose legislation that infringes upon county board of supervisors' local land use decision-making authority.

Background

On May 13, 2016, Governor Brown released his May Revision to the FY 2016-17 Proposed Budget, which included a proposal that would require ministerial, By-Right land use entitlement provisions for multifamily infill housing development that include an

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affordable housing component. The Administration also indicated its support for various legislative proposals (Attachment) that seek to increase housing supply by facilitating the creation of accessory dwelling units, eliminating or reducing requirements for affordable housing projects, and increasing the use of the State's Density Bonus Law.

Governor's May Revision Proposal to Streamline Affordable Housing Approvals

On May 13, 2016, the Department of Finance released draft trailer bill language (TBL) for the Governor's FY 2016-17 May Revision proposal to streamline local governments' approval of affordable housing projects. Under the Administration's proposed legislation, which was revised on June 1, 2016, a local government would be required to permit, by right, newly constructed affordable housing projects, provided that the development:

- Consists of two or more dwelling units;
- Is consistent with the following objective planning standards in effect at the time the development is submitted to the local government:
 - Land use and building intensity designation applicable to the site under the general plan and zoning codes;
 - Land use and density or other objective zoning standards; and
 - Any setback or objective design review standards.
- Is located on a site that is either immediately adjacent to parcels that are developed with urban uses (residential, commercial, public institution, transit, retail, or combo) or is bound by a natural body of water;
- Is an attached housing development, for which the development applicant already has recorded, or is required by law to record, a land-use restriction (at affordability levels detailed below) for at least 30 years;
- Is not located on prime farmland, wetlands, fire hazard zone, hazardous waste site, delineated earthquake fault zone, flood plain, or flood way, unless the development incorporates approved remediation measures;
- Is not located on an area determined by the California Housing and Community Development Department to be inappropriate for affordable housing development; and

- Is not proposed to be located on a property that currently is subject to a recorded covenant, ordinance or law that restricts rents to affordable levels, is subject to any other form of rent or price control, or is occupied by lower- or very-low-income households.

Under the proposed legislation, a local government's review of a permit, license, certificate, or any other entitlement for qualifying developments would be ministerial.

The proposed legislation would also require the following set asides for qualifying projects:

- A set aside of at least 10 percent of the total units for lower income household and at least 5 percent for very low income households for projects that are located within a transit priority area;
- A set aside of at least 20 percent of the units for individuals whose income is 80 percent or less than area median gross income for projects located outside of a transit priority area;
- Relocation assistance for any persons displaced by a development approved through the ministerial process authorized by the bill, and require the development proponent to pay the relocation assistance expenses incurred by any local government as a result of this process;
- If the local government determines that a project is inconsistent with at least one of the objective planning standards delineated above, written documentation, provided within 30 calendar days, substantiating that determination; and
- A limit of 90 days for design review of a project.

The May Revision reports that the Administration's proposal is intended to address development costs and the local entitlement and review processes, which are often cited as primary barriers to the production of affordable housing units. The proposal does not include any funding for affordable housing projects.

The proposal is supported by the Southern California Leadership Council. It is opposed by the: Alliance for Community Transit-Los Angeles; Asian Pacific Environmental Network; Center for Sustainable Neighborhoods; Coalition for Economic Survival;

Each Supervisor
June 13, 2016
Page 4

Coalition to Preserve L.A.; Council of Community Housing Organizations; Courage Campaign; Esperanza Community Housing Corporation; Little Tokyo Service Center; Los Angeles County Bicycle Coalition; and Public Advocates, Inc., among others.

Analysis

The Department of Regional Planning (DRP) recommends that the County oppose the Governor's streamlining proposal unless it is amended to: 1) allow the local jurisdiction to determine whether a project is ministerial; 2) remove all time frames for review of proposed housing projects; and 3) allow expedited environmental review rather than eliminating environmental review for these proposed projects.

The Department of Regional Planning reports that the Governor's streamlining proposal removes County control over local land use decisions and inappropriately designates these generally large housing projects as ministerial, ignoring potential impacts to the surrounding community. The DRP indicates that the local jurisdiction should decide which projects might be ministerial and which should be subject to conditions. In addition, the proposal allows the State Department of Housing and Community Development to determine whether an area is inappropriate for affordable housing development, a decision which is best made by the local government.

According to the Department of Regional Planning, the Governor's streamlining proposal attempts to significantly reduce housing development costs at the expense of environmental health and sustainability by requiring that certain affordable housing developments be processed as ministerial projects, regardless of whether the site contains environmentally sensitive and/or important species, or whether the project has the potential to negatively impact the environment of the surrounding community. The DRP notes that while the proposal does protect wetlands, there would be no protections for County-designated Significant Ecological Areas, Sensitive Environmental Resource Areas, or areas with federally- or State-listed species -- all resources, the County has stated, are important to protect. The DRP further notes that as a ministerial project, no environmental review under the California Environmental Quality Act (CEQA) would be conducted to ensure the development's impacts to the surrounding community are mitigated. While siting criteria listed in the proposal will help reduce the potential impacts of an affordable housing development, these impacts can be significant -- even in an urban area -- and the DRP recommends that expedited CEQA review be allowed rather than eliminated, and only if a project meets specified criteria (such as for infill development in a transit-oriented district and in areas with existing infrastructure), regardless of the set-aside proffered.

Each Supervisor
June 13, 2016
Page 5

The Department of Regional Planning reports that the streamlining proposal attempts to significantly reduce housing development costs at the expense of the local police power by arbitrarily setting extremely short review periods for these large housing projects. Affordable housing projects are often large and complicated, with many steps to consider, and proper and thorough review of such an application requires more than 30 days. The DRP notes that short review periods force County departments to reallocate personnel to review these projects at the expense of other applications; prevent departments from undertaking review meant to protect the public health, safety, and welfare; and prevent the application of conditions intended to ensure the development is consistent and compatible with the surrounding community. The DRP indicates that an expedited environmental review would reduce entitlement processing time; therefore, the perceived need for such very short review periods should be unnecessary. The DRP recommends that these arbitrary review periods be removed.

Conclusion

Approval of this motion to oppose the Governor's proposed trailer bill technical modifications entitled "Streamlining Affordable Housing Approvals" unless amended to expedite entitlement and environmental reviews, rather than eliminate these reviews, in developments that provide at least 25 percent of the total housing units to households that are very low income or below is consistent with Board-approved policy to oppose legislation that infringes upon county board of supervisors' local land use decision-making authority.

The Department of Regional Planning also recommends that the County oppose the Governor's streamlining proposal unless it is amended to: 1) allow the local jurisdiction to determine whether a project is ministerial; 2) remove all time frames for review of proposed housing projects; and 3) allow expedited environmental review rather than eliminating environmental review for these proposed projects.

We will continue to keep you advised.

SAH:JJ:MR
AO:ma

Attachment

c: Executive Office, Board of Supervisors
County Counsel

Legislation Supported by the Governor

As noted in the attached report, the Governor's FY 2016-17 May Revision also expressed the Administration's support for three legislative bills related to the review and approval of housing projects or density bonuses. Briefly, those bills include:

AB 2299 (Bloom), which as amended on April 5, 2016, would: 1) require, rather than permit, a local government to adopt an ordinance for the creation of second units in single-family and multifamily residential zones; 2) prohibit a local government from imposing parking standards near public transit; and 3) prohibit a local government from requiring passageway, pathway, or setbacks for second units.

AB 2299 passed the Assembly and is scheduled for hearing in the Senate Transportation and Housing Committee on June 14, 2016.

AB 2501 (Bloom), which as amended on April 14, 2016, would: 1) require a local government to provide a waiver and reduction of development standards when a developer seeks a density bonus; and 2) require expeditious processing of a density bonus application once received by a local government.

AB 2501 passed the Assembly and is pending assignment to a policy committee in the Senate.

SB 1069 (Wiekowski), which as amended on April 26, 2016, would: 1) require an ordinance for the creation of accessory dwelling units (ADUs) to include specified provisions regarding areas where ADUs may be located, standards, and lot density; 2) revise requirements for the approval or disapproval of an ADU application when a local agency has not adopted an ordinance; and 3) require a local government to consider applications for building permits within 90 days.

SB 1069 passed the Senate and is scheduled for hearing in the Assembly Housing and Community Development Committee on June 15, 2016.