

# WESTWOOD NEIGHBORHOOD COUNCIL

February 9, 2022

Agenda Item # 9

## MOTION

### **OUR NEIGHBORHOOD VOICES INITIATIVE: “LOCAL LAND-USE AND ZONING LAWS OVERRIDE ALL CONFLICTING STAT LAWS**

The Westwood Neighborhood Council supports the “Our Neighborhood Voices Initiative,” a grassroots response to the passage of SB9, that seeks to retain local control over land use and zoning rules and policies to be filed as a CIS in CF 21-1414 (text summary by the California Attorney General follows below).

The reasons for our position include, but are not limited to, the following:

- Local communities are more qualified than the State to make, implement, and oversee land-use and zoning policies;
- Allowing developers to take advantage of state density laws in single-family communities without requiring any affordable units, environmental review, infrastructure analysis or improvements, or enforceable owner-occupancy rules, will fuel displacement and gentrification in sensitive communities;
- Communities of color and working-class neighborhoods are besieged by investors and institutions seeking more single-family homes to buy, squeezing out homeownership; we must stand strong against “trickle-down” housing that transforms homeowners into renters and destabilizes homeowner communities;
- We all have a role in increasing affordable housing production, by collaboration between all levels of government, the private sector, and community members; Our Neighborhood Voices Initiative is a step in the right direction by helping prevent the State from manipulating local land-use policy and handing out developer "incentives" that produce little affordable housing, and then blame local government for the crisis. Without delivering funding, or effective policies that produce affordable housing, California won't see an end to the housing crisis; and
- A basic tenet of our democracy is our right to speak out about public policy that directly impacts our citizens and communities. The State has instead prioritized the needs of developers, investors and financiers, providing them outsized benefits to produce more and more market-rate housing.

- This is fundamentally undemocratic. Being heard on the issues that face our communities is the heart of the Our Neighborhood Voices Initiative.
- 

## SUMMARY OF THE CHIEF PURPOSE AND POINTS OF OUR NEIGHBORHOOD VOICES INITIATIVE

November 1, 2021  
Initiative 21-0016 (Amdt. 1)

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**PROVIDES THAT LOCAL LAND-USE AND ZONING LAWS OVERRIDE CONFLICTING STATE LAWS.  
INITIATIVE CONSTITUTIONAL AMENDMENT.**

Provides that city and county land-use and zoning laws (including local housing laws) override all conflicting state laws, except in certain circumstances related to three areas of statewide concern: (1) the California Coastal Act of 1976; (2) siting of power plants; or (3) development of water, communication, or transportation infrastructure projects. Prevents state legislature and local legislative bodies from passing laws invalidating voter-approved local land-use or zoning initiatives. Prohibits state from changing, granting, or denying funding to local governments based on their implementation of this measure. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local governments: **Fiscal effects of the measure depend on future decisions by the cities and counties and therefore are unknown.** (21-0016A1.)

SECTION 1. The people of the State of California find and declare all of the following:

- (a) The circumstances and environmental impacts of local land use decisions vary greatly across the state from locality to locality.
- (b) The infrastructure required to maintain appropriate levels of public services, including police and fire services, parklands and public open spaces, transportation, water supply, schools, and sewers varies greatly across the state from locality to locality.
- (c) Land use decisions made by local officials must balance development with public facilities and services while addressing the economic, environmental, and social needs of the particular communities served by those local officials.
- (d) Thus, it is in the best interests of the state and local communities for these complex decisions to be made at the local level to ensure that the specific, unique characteristics, constraints, and needs of those communities are properly analyzed and addressed.
- (e) Gentrification of housing adjacent to public transportation will reduce or eliminate the availability of low or very low income housing near public transit, resulting in the loss of access by low or very low income persons to public transit, declines in public transit ridership, and increases in vehicle miles travelled.
- (f) The State Legislature cannot properly assess the impacts upon each community of sweeping centralized and rigid state land use rules and zoning regulations that apply across the state without regard to community impacts and, as a result, statewide land use and zoning will do great harm to local communities with differing circumstances and concerns.
- (g) Community development should not be controlled by state planners, but by local governments that know and can address the needs of, and the impacts upon, local communities. Local initiatives approved by voters pertaining to land use and zoning restrictions should not be nullified or superseded by the actions of any local or state legislative body.
- (h) Numerous state laws that target communities for elimination of zoning standards have been enacted, and continue to be proposed, that eliminate or erode local control over local development

and circumvent the California Environmental Quality Act (“CEQA”), creating the potential for harmful environmental impacts to occur.

(i) The purpose of this measure is to ensure that all decisions regarding local land use controls, including zoning law and regulations, are made by the affected communities in accordance with applicable law, including but not limited to CEQA (Public Resources Code § 21000 et seq.), the California Fair Employment and Housing Act (Government Code §§ 12900 – 12996), prohibitions against discrimination (Government Code § 65008), and affirmatively furthering fair housing (Government Code § 8899.50). This constitutional amendment would continue to provide for state control in the coastal zone, the siting of a power plant that can generate more than 50 megawatts of electricity, or the development or construction of water, communication or transportation infrastructure projects which the Legislature declares are matters of statewide concern and are in the best interests of the state. For purposes of this measure, it is the intent that a transportation infrastructure project shall not include a transit-oriented development project that is residential, commercial, or mixed-use.

SECTION 2. Section 4.5 is added to Article XI of the California Constitution, to read:

SEC. 4.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a county charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a county charter, that regulates the zoning, development or use of land within the boundaries of an unincorporated area of the county shall be deemed a county affair within the meaning of Section 4 and shall prevail over a conflicting state statute. No voter approved local initiative that regulates the zoning, development or use of land within the boundaries of any county shall be overturned or otherwise nullified by any legislative body.

(b) A county charter provision, general plan, specific plan, ordinance or a regulation adopted and applicable to an unincorporated area within a county, may be determined only by a court of competent jurisdiction, in accordance with Section 4, to address either a matter of statewide concern or a county affair if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

(1) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.

(2) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(3) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 3. Section 5.5 is added to Article XI of the California Constitution, to read:

SEC. 5.5. (a) Except as provided in subdivision (b), in the event of a conflict with a state statute, a city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, that establishes land use policies or regulates zoning or development standards within the

boundaries of the city shall be deemed a municipal affair within the meaning of Section 5 and shall prevail over a conflicting state statute. No voter approved local initiative that regulates the zoning, development or use of land within the boundaries of any city shall be overturned or otherwise nullified by any legislative body.

(b) A city charter provision, general plan, specific plan, ordinance or a regulation adopted pursuant to a city charter, may be determined only by a court of competent jurisdiction, in accordance with Section 5, to address either a matter of statewide concern or a municipal affair 58277666.v2 if that provision, ordinance, or regulation conflicts with a state statute with regard to only the following:

(1) The California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.

(2) The siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(3) The development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this paragraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SECTION 4. Section 7 of Article XI of the California Constitution is amended to read:

SEC. 7. (a) A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations ~~not~~ that are not, except as provided in subdivision (b), in conflict with general laws. A county or city may not supersede or otherwise interfere with any voter approved local initiative pertaining to land use or zoning restrictions.

(b) A county or city general plan, specific plan, ordinance or regulation that regulates the zoning, development or use of land within the boundaries of the county or city shall prevail over conflicting general laws, except for only the following:

A) A coastal land use plan, ordinance or regulation that conflicts with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), or a successor statute.

(B) An ordinance or regulation that addresses the siting of a power generating facility capable of generating more than 50 megawatts of electricity and the California Public Utilities Commission has determined that a need exists at that location that is a matter of statewide concern.

(C) An ordinance or regulation that addresses the development or construction of a water, communication or transportation infrastructure project for which the Legislature has declared in statute the reasons why the project addresses a matter of statewide concern and is in the best interests of the state. For purposes of this subparagraph, a transportation infrastructure project does not include a transit-oriented development project, whether residential, commercial, or mixed-use.

(c) No modification to appropriations for state funded programs shall occur, and no state grant applications or funding shall be denied as a result of the application of this section. No benefit or

preference in state appropriations or grants shall be given to an entity that opts not to utilize the provisions of this section.

(d) The provisions of this subdivision are severable. If any provision of this subdivision or its application is held invalid, that invalidity shall not affect other provisions or application is held invalid that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.