

From: Sergio Ramirez [<mailto:sergioramirezbatiz@gmail.com>]

Sent: Tuesday, August 16, 2016 2:06 PM

To: BSpector; Marico Sayoc; Marcia Jensen; Rob Rennie; Steven Leonardis; Laurel Prevetti; Joel Paulson

Subject: North 40

Dear Council members,

It is difficult to know how this could have happened: a gigantic and ill advised project has gotten to the point that it is up to you to approve it or deny it.

It should be evident that the project is jammed into half of the property, and piled up against the Lark Avenue side so that all housing units will be able to send their children to Los Gatos Schools.

Has the developer provided adequate facilities to compensate for the additional students? A new Campus? Full compensation to the District for School Impact so the District can build the new schools needed?

It should also be clearly evident that the existing traffic infrastructure is totally inadequate to support the additional traffic that will be generated not only by this project, but by the Samaritan Project

Has the developer proposed adequate mitigation for the horrendous traffic jams that will ensue? Is it not lesson enough to see the jams already in progress at Winchester and 85, with the new use of the Club and Netflix across the street? That section of Winchester, will become a nightmare when all the employees come to work. How is this overall traffic situation being addressed at North 40?

It should be clearly evident that this project has been designed by the developers to maximize profits and then leave Town with a huge and irreparable traffic problem.

It should be clearly evident that the Town does not have the infrastructure necessary to support anything like what the developer wants to do here.

I should be clearly evident that the Town Council MUST deny the developer's application for this project. It should be a project developed by local developers, designed by local architects and planners, all of which understand Los Gatos. The Giant developers don't care about communities; they care only about profits. That is their job; to make money for shareholders.

The Town Council's job is to protect the Town and its citizens from predatory developers that surely sing deceptive songs about increased Town Revenues which is a great temptation.

The Town Council MUST not listen to these Siren Songs, and protect a legacy that has taken centuries to build.

Sincerely,

Sergio and Maria Ramirez-Batiz

From: Liz Dillon [mailto:liz.dillon@comcast.net]

Sent: Tuesday, August 16, 2016 3:11 PM

To: BSpector; Marico Sayoc; Marcia Jensen; Rob Rennie; Steven Leonardis

Cc: Laurel Prevetti; Joel Paulson

Subject: Deny the proposed North 40 project

Dear Town Council Members,

As a resident of Los Gatos for over 15 years, I strongly urge you to deny the proposed North 40 project. The impact on the traffic and schools has not been properly considered. The segment of Los Gatos Blvd between Highway 85 and Lark is too narrow for the existing traffic. The traffic frequently sits at a standstill. Without adding the new development, the Town should widen this stretch from four to six lanes. I can't even imagine the gridlock on that area if you added 320 more residences.

The stretch of Los Gatos Blvd between Blossom Hill and Main Street is frequently stopped due to school traffic. The traffic related to schools could be mitigated by the developer providing land, facilities, and school busses to transport all Los Gatos Unified School District and Los Gatos High School students. In conjunction with this, the school districts should limit parent driving of children to school, unless necessitated by medical reasons or after-school sports/tutoring. The impact of more students from the 320 new residences will further clog our streets and our schools.

Thank you for your consideration,

Elizabeth Dillon

105 Highland Ave.

Los Gatos, CA 95030

From: Deborah Fein [<mailto:deborahfein@gmail.com>]

Sent: Tuesday, August 16, 2016 3:43 PM

To: BSpector; Marico Sayoc; Marcia Jensen; Rob Rennie; Steven Leonardis; Laurel Prevetti; Joel Paulson

Subject: Please consider denying North 40 current density

Dear Town Leaders:

I moved back to Los Gatos after college to my first solo apartment where I met my husband, also renting in the complex. We had to move and/or buy three times before we could get to our fourth place and our home purchase goal: Los Gatos. It meant something to finally be able to live here. It was hard work, dedication and "paying our dues". We were the second owners of a home built in the 50's- needless to say it was complete fixer upper! I remember that second night sitting on the edge of the old bathtub, looking at the terra cotta tile, pink floral wallpaper and bright yellow tiled vanity and realizing every room in the house, as well as the plumbing, electrical, roof and yard needed work. I wondered that night if I had buyers remorse.

But 15 years, three kids and several steps later towards getting the house remodeled and renovated, I thought it was worth the struggle. I made great friends, got to know wonderful neighbors and met teachers and staff from different preschools, Blossom Hill Elementary, Fisher Middle and LGHS. I got to know which cashiers I wanted to wait in line for, which streets I enjoyed walking on, what the hills looked like at different times of the year, what place had the coffee I liked, or where I could find the perfect gift. I didn't mind that my real estate investment was growing, largely due to the high regard of the schools and charm of downtown, but I also I got anxious about big anchor stores moving into town, seeing the dome of a relentlessly un-leased building block the views of the hills, and witnessing developments with 3100 square foot "single family homes" on 3900 square foot lots...yes - that is correct*! I saw my drive time from Whole Foods to LGSRC go from 6 minutes to 16 minutes and the kindergarten class size go from 19 to 24, and the fact that a week-day morning round-trip from The Manor neighborhood to Fisher and back took about 40 minutes. I saw dealerships, orchards and single plots of land turned into house after house after house - any possible way to divide a lot and get another home on it! I saw the flex rooms at the elementary school being used as classrooms because even the beautiful newly built school soon didn't have enough room. And the icing on the cake was being told I was only allowed three tickets to my son's Middle School graduation due to over crowding - not even enough for his parent and siblings to be seated, let alone grandparents.

I thought about all this the other day when I was stopped in traffic on Lark Avenue, in front of the house at the side of the road where the North 40 is planned. There is a large trampoline sitting in the orchard, and a boy was laying on his back with his hands behind his head looking up into the sky. I smiled at the thought of a lazy afternoon, daydreaming, when all of a sudden, I realized he wasn't looking at a leafy canopy of trees or the shifting shapes of the clouds or the mountains in the distance. He was staring straight up at the story poles towering above his soon-to-be removed trampoline. I can only imagine what he was thinking. I literally gasped. So I wasn't surprised to wonder again if I had buyers remorse - I just didn't think I'd have it 15 years later.

I ask that you please carefully and honestly consider what will happen to the Town of Los Gatos, if the proposal for the North 40 development is fully allowed.

Debbie Fein

* PUBLIC RECORD

16220 George St Los Gatos, CA 95032

- Single-Family Home
- 3,193 sqft
- Lot size: 3,911 sqft

From: Carla Mason [<mailto:carla.d.mason@gmail.com>]

Sent: Tuesday, August 16, 2016 5:07 PM

Subject: Vote NO on North 40 Plan!!

Dear Los Gatos Elected Officials,

Please deny the North 40 Plan. In light of the new development that will be taking place at Good Samaritan Hospital which will impact traffic on Los Gatos Blvd. by 15,000 more cars per day, it is imperative to also consider the extra 14,000 cars per day that the North 40 Plan will generate!!!

Please do your part in protecting our wonderful town. Another better plan will be forthcoming, I'm sure. Let's be prudent and do the right thing: VOTE NO on THE NORTH 40 PLAN!!

Thank you,
Carla Mason
Resident on Arroyo Grande Way

From: Beverly Christensen [mailto:beverlychristensen@comcast.net]
Sent: Tuesday, August 16, 2016 5:17 PM
To: BSpector; Marico Sayoc; Steven Leonardis; Joel Paulson
Cc: Laurel Prevetti
Subject: Meeting tonight

Hello to member of the Town Council -

I am writing to you to thank you for all your efforts on the north 40 project. I know you have spent countless hours and I really appreciate you taking all this time to ensure that the town of Los Gatos remains great.

Please note that as a mother of 4 kids I am very concerned about the potential increase in enrollment for the Los Gatos schools, due to the proposed housing plan on the North 40. I feel that the schools are already overcrowded and school resources are maxed out. I have seen enrollment increase each year. It really becomes challenging to maintain quality standards in education when programs and classrooms have reached their max and there is not enough personal instruction.

Of course the increase in enrollment will of course affect the traffic flow down Los Gatos Blvd. It already runs at a slow pace everyday week day during the morning and afternoon. I am sure you realize this....not to mention the weekend beach traffic.

Changes need to be made to this existing plan and I am thankful that you are insisting on upholding the values and desires of the people for the town of Los Gatos. Los Gatos cannot remain the unique and wonderful town it is today if this developer is allowed to pursue their existing plan. Please deny the existing plan and work to preserve the future of Los Gatos and families.

Please continue to deny this project as it is proposed!

Thank you so very much!

Bev Christensen

From: jplg159@juno.com [<mailto:jplg159@juno.com>]

Sent: Tuesday, August 16, 2016 6:40 PM

To: Joel Paulson

Subject: North 40!

You denied this project earlier. stop it while you can.

It will ruin our beautiful TOWN tell the developers to go else where and try to screw other residents,
and take away the love of their TOWN. Please DENY this project--it's much to dense!

Along time resident--

From: John Shepardson <shepardsonlaw@me.com>
Sent: Wednesday, August 17, 2016 1:06 AM
To: BSpector; Marico Sayoc; Steven Leonardis; Rob Rennie; Marcia Jensen; Greg Larson; Robert Schultz; Council
Subject: No. 40-AB No. 2222 (Legislative Counsel's Digest)

Quoting from (with emphases)

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2222

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AB-2222 Housing density bonus. (2013-2014)

Text Votes History Bill Analysis Today's Law As Amended Compare Versions Status Comments To Author

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BILL START

Assembly Bill No. 2222

CHAPTER 682

An act to amend Sections 65915 and 65915.5 of the Government Code, relating to housing.

[Approved by Governor September 27, 2014. Filed with Secretary of State September 27, 2014.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2222, Nazarian. Housing density bonus.

The Planning and Zoning Law requires, when a developer of housing proposes a housing development within the jurisdiction of the local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents.

Existing law requires continued affordability for 30 years or longer, as specified, of all very low and low-income units that qualified an applicant for a density bonus.

This bill instead would require continued affordability for 55 years or longer, as specified, of all very low and low-income rental units that qualified an applicant for a density bonus. This bill would also include very low

and low-income persons among the initial occupants of for-sale units. **This bill also**

would prohibit an applicant from receiving a density bonus unless the proposed housing development would, for units subject to certain affordability requirements that were occupied by qualifying persons on the date of application, provide at

least the same number of units of equivalent size or type, or both, to be made available for rent at affordable housing costs to, and occupied by, persons and families in the same or lower income category as those households in occupancy.

For those subject types of units that have been vacated or demolished at the time of application, this bill would condition a density bonus upon at least the same number of units of equivalent size or type, or both, as existed at the highpoint in the preceding 5 years being made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known.

Existing law also requires a city, county, or city and county to grant a density bonus or other incentives, as specified, when an applicant for approval to convert apartments to a condominium project agrees, among other things, to provide a specified percentage of units for low- or moderate-income persons and families or for lower income households, as defined.

This bill also would prohibit an applicant from receiving a density bonus unless the proposed condominium project would replace the existing affordable units with at least the same number of affordable units of equivalent size or type, or both, and the proposed development, inclusive of the units replaced pursuant to the requirements described above, contains affordable units according to specified percentages or consists entirely of affordable units.

DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

Section 65915 of the Government Code is amended to read:

65915.

(a) When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the jurisdiction of a city, county, or city and county, that local government shall provide the applicant with incentives or concessions for the production of housing units and child care facilities as prescribed in this section. All cities, counties, or cities and counties shall adopt an ordinance that specifies

how compliance with this section will be implemented. Failure to adopt an ordinance shall not relieve a city, county, or city and county from complying with this section.

(b) (1) A city, county, or city and county shall grant one density bonus, the amount of which shall be as specified in subdivision (f), and incentives or concessions, as described in subdivision (d), when an applicant for a housing development seeks and agrees to construct a housing development, excluding any units permitted by the density bonus awarded pursuant to this section, that will contain at least any one of the following:

(A) Ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(B) Five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(C) A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or mobilehome park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code.

(D) Ten percent of the total dwelling units in a common interest development as defined in Section 4100 of the Civil Code for persons and families of moderate income, as defined in Section 50093 of the Health and Safety Code, provided that all units in the development are offered to the public for purchase.

(2) For purposes of calculating the amount of the density bonus pursuant to subdivision (f), the applicant who requests a density bonus pursuant to this subdivision shall elect whether the bonus shall be awarded on the basis of subparagraph (A), (B), (C), or (D) of paragraph (1).

(3) For the purposes of this section, "total units" or "total dwelling units" does not include units added by a density bonus awarded pursuant to this section or any local law granting a greater density bonus.

(c) (1) An applicant shall agree to, and the city, county, or city and county shall ensure, continued affordability of all very low and low-income rental units that qualified the applicant for the award of the density bonus for 55 years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program. Rents for the lower income density bonus units shall be set at an affordable rent as defined in Section 50053 of the Health and Safety Code.

(2) An applicant shall agree to, and the city, county, or city and county shall ensure that, the initial occupant of all for-sale units that qualified the applicant for the award of the density bonus are persons and families of very low, low, or moderate income, as required, and that the units are offered at an affordable housing cost, as that cost is defined in Section 50052.5 of the Health and Safety Code. The local government shall enforce an equity sharing agreement, unless it is in conflict with the requirements of another public funding source or law. The following apply to the equity sharing agreement:

(A) Upon resale, the seller of the unit shall retain the value of any improvements, the downpayment, and the seller's proportionate share of appreciation. The local government shall recapture any initial subsidy, as defined in subparagraph (B), and its proportionate share of appreciation, as defined in subparagraph (C), which amount shall be used within five years for any of the purposes described in subdivision (e) of Section 33334.2 of the Health and Safety Code that promote home ownership.

(B) For purposes of this subdivision, the local government's initial subsidy shall be equal to the fair market value of the home at the time of initial sale minus the initial sale price to the moderate-income household, plus the amount of any downpayment assistance or mortgage assistance. If upon resale the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(C) For purposes of this subdivision, the local government's proportionate share of appreciation shall be equal to the ratio of the local government's initial subsidy to the fair market value of the home at the time of initial sale.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or **occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:**

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or

both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Paragraph (3) of subdivision (c) **does not apply** to an applicant seeking a density bonus for a proposed housing development **if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.**

(d) (1) An applicant for a density bonus pursuant to subdivision (b) may submit to a city, county, or city and county a proposal for the specific incentives or concessions that the applicant requests pursuant to this section, and may request a meeting with the city, county, or city and county. The city, county, or city and county shall grant the concession or incentive requested by the applicant unless the city, county, or city and county makes a written finding, based upon substantial evidence, of any of the following:

(A) The concession or incentive is not required in order to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

(B) The concession or incentive would have a specific adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.

(C) The concession or incentive would be contrary to state or federal law.

(2) The applicant shall receive the following number of incentives or concessions:

(A) One incentive or concession for projects that include at least 10 percent of the total units for lower income households, at least 5 percent for very low income households, or at least 10 percent for persons and families of moderate income in a common interest development.

(B) Two incentives or concessions for projects that include at least 20 percent of the total units for lower income households, at least 10 percent for very low income households, or at least 20 percent for persons and families of moderate income in a common interest development.

(C) Three incentives or concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for persons and families of moderate income in a common interest development.

(3) The applicant may initiate judicial proceedings if the city, county, or city and county refuses to grant a requested density bonus, incentive, or concession. If a court finds that the refusal to grant a requested density bonus, incentive, or concession is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that has a specific, adverse impact, as defined in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to grant an incentive or concession that would have an adverse impact on any real property that is listed in the California Register of Historical Resources. The city, county, or city and county shall establish procedures for carrying out this section, that shall include legislative body approval of the means of compliance with this section.

(e) (1) In no case may a city, county, or city and county apply any development standard that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted by this section. An applicant may submit to a city, county, or city and county a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a development meeting the criteria of subdivision (b) at the densities or with the concessions or incentives permitted under this section, and may request a meeting with the city, county, or city and county. If a court finds that the refusal to grant a waiver or reduction of development standards is in violation of this section, the court shall award the plaintiff reasonable attorney's fees and costs of suit. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact, as defined

in paragraph (2) of subdivision (d) of Section 65589.5, upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. Nothing in this subdivision shall be interpreted to require a local government to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

(2) A proposal for the waiver or reduction of development standards pursuant to this subdivision shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to subdivision (d).

(f) For the purposes of this chapter, "density bonus" means a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the city, county, or city and county. The applicant may elect to accept a lesser percentage of density bonus. The amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable housing units exceeds the percentage established in subdivision (b).

(1) For housing developments meeting the criteria of subparagraph (A) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Low-Income Units	Percentage Density Bonus
10	20
11	21.5
12	23
13	24.5
14	26
15	27.5
17	30.5
18	32
19	33.5
20	35

(2) For housing developments meeting the criteria of subparagraph (B) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Very Low Income Units	Percentage Density Bonus
5	20
6	22.5
7	25
8	27.5
9	30
10	32.5

(3) For housing developments meeting the criteria of subparagraph (C) of paragraph (1) of subdivision (b), the density bonus shall be 20 percent of the number of senior housing units.

(4) For housing developments meeting the criteria of subparagraph (D) of paragraph (1) of subdivision (b), the density bonus shall be calculated as follows:

Percentage Moderate-Income Units	Percentage Density Bonus
10	5
11	6
12	7
13	8
14	9
15	10
16	11
17	12
18	13
19	14
20	15
21	16
22	17
23	18
24	19
25	20
26	21
27	22
28	23
29	24
30	25
31	26
32	27
33	28
34	29

35	30
36	31
37	32
38	33
39	34
40	35

(5) All density calculations resulting in fractional units shall be rounded up to the next whole number. The granting of a density bonus shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval.

(g) (1) When an applicant for a tentative subdivision map, parcel map, or other residential development approval donates land to a city, county, or city and county in accordance with this subdivision, the applicant shall be entitled to a 15-percent increase above the otherwise maximum allowable residential density for the entire development, as follows:

Percentage Very Low Income	Percentage Density Bonus
10	15
11	16
12	17
13	18
14	19
15	20
16	21
17	22
18	23
19	24
20	25
21	26
22	27
23	28
24	29
25	30
26	31
27	32

28	33
29	34
30	35

(2) This increase shall be in addition to any increase in density mandated by subdivision (b), up to a maximum combined mandated density increase of 35 percent if an applicant seeks an increase pursuant to both this subdivision and subdivision (b). All density calculations resulting in fractional units shall be rounded up to the next whole number. Nothing in this subdivision shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to donate land as a condition of development. An applicant shall be eligible for the increased density bonus described in this subdivision if all of the following conditions are met:

- (A) The applicant donates and transfers the land no later than the date of approval of the final subdivision map, parcel map, or residential development application.
- (B) The developable acreage and zoning classification of the land being transferred are sufficient to permit construction of units affordable to very low income households in an amount not less than 10 percent of the number of residential units of the proposed development.
- (C) The transferred land is at least one acre in size or of sufficient size to permit development of at least 40 units, has the appropriate general plan designation, is appropriately zoned with appropriate development standards for development at the density described in paragraph (3) of subdivision (c) of Section 65583.2, and is or will be served by adequate public facilities and infrastructure.
- (D) The transferred land shall have all of the permits and approvals, other than building permits, necessary for the development of the very low income housing units on the transferred land, not later than the date of approval of the final subdivision map, parcel map, or residential development application, except that the local government may subject the proposed development to subsequent design review to the extent authorized by subdivision (i) of Section 65583.2 if the design is not reviewed by the local government prior to the time of transfer.
- (E) The transferred land and the affordable units shall be subject to a deed restriction ensuring continued affordability of the units consistent with paragraphs (1) and (2) of subdivision (c), which shall be recorded on the property at the time of the transfer.
- (F) The land is transferred to the local agency or to a housing developer approved by the local agency. The local agency may require the applicant to identify and transfer the land to the developer.
- (G) The transferred land shall be within the boundary of the proposed development or, if the local agency agrees, within one-quarter mile of the boundary of the proposed development.
- (H) A proposed source of funding for the very low income units shall be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application.
- (h) (1) When an applicant proposes to construct a housing development that conforms to the requirements of subdivision (b) and includes a child care facility that will be located on the premises of, as part of, or adjacent to, the project, the city, county, or city and county shall grant either of the following:
 - (A) An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility.
 - (B) An additional concession or incentive that contributes significantly to the economic feasibility of the construction of the child care facility.

(2) The city, county, or city and county shall require, as a condition of approving the housing development, that the following occur:

(A) The child care facility shall remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to subdivision (c).

(B) Of the children who attend the child care facility, the children of very low income households, lower income households, or families of moderate income shall equal a percentage that is equal to or greater than the percentage of dwelling units that are required for very low income households, lower income households, or families of moderate income pursuant to subdivision (b).

(3) Notwithstanding any requirement of this subdivision, a city, county, or city and county shall not be required to provide a density bonus or concession for a child care facility if it finds, based upon substantial evidence, that the community has adequate child care facilities.

(4) "Child care facility," as used in this section, means a child day care facility other than a family day care home, including, but not limited to, infant centers, preschools, extended day care facilities, and schoolage child care centers.

(i) "Housing development," as used in this section, means a development project for five or more residential units. For the purposes of this section, "housing development" also includes a subdivision or common interest development, as defined in Section 4100 of the Civil Code, approved by a city, county, or city and county and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling, as defined in subdivision (d) of Section 65863.4, where the result of the rehabilitation would be a net increase in available residential units. For the purpose of calculating a density bonus, the residential units shall be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. The density bonus shall be permitted in geographic areas of the housing development other than the areas where the units for the lower income households are located.

(j) (1) The granting of a concession or incentive shall not be interpreted, in and of itself, to require a general plan amendment, local coastal plan amendment, zoning change, or other discretionary approval. This provision is declaratory of existing law.

(2) Except as provided in subdivisions (d) and (e), the granting of a density bonus shall not be interpreted to require the waiver of a local ordinance or provisions of a local ordinance unrelated to development standards.

(k) For the purposes of this chapter, concession or incentive means any of the following:

(1) A reduction in site development standards or a modification of zoning code requirements or architectural design requirements that exceed the minimum building standards approved by the California Building Standards Commission as provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions.

(2) Approval of mixed-use zoning in conjunction with the housing project if commercial, office, industrial, or other land uses will reduce the cost of the housing development and if the commercial, office, industrial, or other land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located.

(3) Other regulatory incentives or concessions proposed by the developer or the city, county, or city and county that result in identifiable, financially sufficient, and actual cost reductions.

(l) Subdivision (k) does not limit or require the provision of direct financial incentives for the housing development, including the provision of publicly owned land, by the city, county, or city and county, or the waiver of fees or dedication requirements.

(m) This section shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(n) If permitted by local ordinance, nothing in this section shall be construed to prohibit a city, county, or city and county from granting a density bonus greater than what is described in this section for a development that meets the requirements of this section or from granting a proportionately lower density bonus than what is required by this section for developments that do not meet the requirements of this section.

(o) For purposes of this section, the following definitions shall apply:

(1) "Development standard" includes a site or construction condition, including, but not limited to, a height limitation, a setback requirement, a floor area ratio, an onsite open-space requirement, or a parking ratio that applies to a residential development pursuant to any ordinance, general plan element, specific plan, charter, or other local condition, law, policy, resolution, or regulation.

(2) "Maximum allowable residential density" means the density allowed under the zoning ordinance and land use element of the general plan, or if a range of density is permitted, means the maximum allowable density for the specific zoning range and land use element of the general plan applicable to the project. Where the density allowed under the zoning ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(p) (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:

(A) Zero to one bedroom: one onsite parking space.

(B) Two to three bedrooms: two onsite parking spaces.

(C) Four and more bedrooms: two and one-half parking spaces.

(2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide "onsite parking" through tandem parking or uncovered parking, but not through onstreet parking.

(3) This subdivision shall apply to a development that meets the requirements of subdivision (b) but only at the request of the applicant. An applicant may request parking incentives or concessions beyond those provided in this subdivision pursuant to subdivision (d).

SEC. 2.

Section 65915.5 of the Government Code is amended to read:

65915.5.

(a) When an applicant for approval to convert apartments to a condominium project agrees to provide at least 33 percent of the total units of the proposed condominium project to persons and families of low or moderate income as defined in Section 50093 of the Health and Safety Code, or 15 percent of the total units of the proposed condominium project to lower income households as defined in Section 50079.5 of the Health and Safety Code, and agrees to pay for the reasonably necessary administrative costs incurred by a city, county, or city and county pursuant to this section, the city, county, or city and county shall either (1) grant a density bonus or (2) provide other incentives of equivalent financial value. A city, county, or city and county may place such reasonable conditions on the granting of a density bonus or other incentives of equivalent financial value as it finds appropriate, including, but not limited to, conditions which assure continued affordability of units to subsequent purchasers who are persons and families of low and moderate income or lower income households.

(b) For purposes of this section, "density bonus" means an increase in units of 25 percent over the number of apartments, to be provided within the existing structure or structures proposed for conversion.

(c) For purposes of this section, "other incentives of equivalent financial value" shall not be construed to require a city, county, or city and county to provide cash transfer payments or other monetary compensation but may include the reduction or waiver of requirements which the city, county, or city and county might otherwise apply as conditions of conversion approval.

(d) An applicant for approval to convert apartments to a condominium project may submit to a city, county, or city and county a preliminary proposal pursuant to this section prior to the submittal of any formal requests for subdivision map approvals. The city, county, or city and county shall, within 90 days of receipt of a written proposal, notify the applicant in writing of the manner in which it will comply with this section. The city, county, or city and county shall establish procedures for carrying out this section, which shall include legislative body approval of the means of compliance with this section.

(e) Nothing in this section shall be construed to require a city, county, or city and county to approve a proposal to convert apartments to condominiums.

(f) An applicant shall be ineligible for a density bonus or other incentives under this section if the apartments proposed for conversion constitute a housing development for which a density bonus or other incentives were provided under Section 65915.

(g) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the condominium project is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed condominium project replaces those units, as defined in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, and either of the following applies:

(1) The proposed condominium project, inclusive of the units replaced pursuant to subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915, contains affordable units at the percentages set forth in subdivision (a).

(2) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(h) Subdivision (g) does not apply to an applicant seeking a density bonus for a proposed housing development if their application was submitted to, or processed by, a city, county, or city and county before January 1, 2015.

Quoting from https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB2556

CALIFORNIA LEGISLATURE— 2015–2016 REGULAR SESSION

ASSEMBLY BILL

No. 2556

Introduced by Assembly Member Nazarian

February 19, 2016

An act to amend Section 65915 of the Government Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2556, as amended, Nazarian. Density bonuses.

The Planning and Zoning Law requires, when an applicant proposes a housing development within the jurisdiction of a local government, that the city, county, or city and county provide the developer with a density bonus and other incentives or concessions for the production of lower income housing units or for the donation of land within the development if the developer, among other things, agrees to construct a specified percentage of units for very low, low-, or moderate-income households or qualifying residents. That law makes an applicant ineligible for a density bonus if the housing development is proposed on property with existing or certain former dwelling units subject to specific affordability requirements, including a form of rent or price control through a public entity's valid exercise of its police power, or on property with

existing units occupied by lower or very low income households, unless the proposed housing development replaces those units as prescribed. That law defines "replace" for those purposes, purposes to mean, among other things, providing the same number of equivalent units to persons or families in the same or lower income categories.

This bill would revise ~~the that~~ definition of "replace" to require ~~a city, county, or city and county to adopt a rebuttable presumption~~ *presumption, based on certain federal data*, regarding the proportion of lower income ~~renter~~ households that occupy existing ~~units~~ *units*, if the income category of the households in occupancy is not known. The bill, if the property for the proposed housing development is subject to a form of rent or price control through a local government's valid exercise of its police power and is or was occupied by a person or family with an income above lower income, would authorize the city, county, or city and county either to require replacement units to be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families, as specified, or to require the units to be replaced in compliance with the rent or price control ordinance of the jurisdiction. By increasing the duties of local officials, this bill would impose a state-mandated local program.

Quoting from

[http://www.kmtg.com/sites/default/files/files/Density%20Bonus%20Law 2015 Web%20Version.pdf](http://www.kmtg.com/sites/default/files/files/Density%20Bonus%20Law%202015%20Web%20Version.pdf)

How the Density Bonus Law Can Help in a Hostile Jurisdiction

It is important to know that the density bonus is a state law requirement which is mandatory on cities and counties, even charter cities which are free from many other state requirements. A developer who meets the law's requirements for affordable or senior units is entitled to the density bonus and other assistance as of right, regardless of what the locality wants (subject to limited health and safety exceptions). The density bonus statute can be used to achieve reductions in development standards

or the granting of concessions or incentives from jurisdictions that otherwise would not be inclined to grant those items. Examples might include a reduction in parking standards if those standards are deemed excessive by the developer, or other reductions in development standards if needed to achieve the total density permitted by the density bonus.

Developers who nonetheless encounter hostility from local jurisdictions are provided several tools to ensure that a required density bonus is actually granted. Developers are entitled to an informal meeting with a local jurisdiction which fails to modify a requested development standard. If a developer successfully sues the locality to enforce the density bonus requirements, it is entitled to an award of its attorneys' fees. The obligation to pay a developer's

"A developer who meets the law's requirements for affordable or senior units is entitled to the density bonus and other assistance as of right, regardless of what the locality wants."

attorneys' fees is a powerful incentive for local jurisdictions to voluntarily comply with the state law density bonus requirements, even when the jurisdiction is not in favor of its effects on the project.

Density Bonus and Replacement Housing

New legislation effective as of January 1, 2015 (Assembly Bill 2222) requires developers obtaining a density bonus to replace existing affordable units demolished or vacated prior to the density bonus

application, in addition to providing new affordable units.

Determination Letter - Department of City Planning - City of Los Angeles planning.lacity.org/liberty/home/index/pdis/26C73

May 13, 2016 - DETERMINATION - Density Bonus/Affordable Housing Incentives ... residential units including **Density Bonus Units**. 3. ... The **Applicant will** present a copy of the recorded covenant to the ... The **proposed** Project shall **provide** minimum east and west side yard Section 50052.5 addresses owner-occupied.

Quoting from

[http://www.cityofberkeley.info/uploadedFiles/Rent Stabilization Board/Level 3 - General/8.a.3. Legislative%20update%20with%20Housing%20Bills%20matrix.pdf](http://www.cityofberkeley.info/uploadedFiles/Rent%20Stabilization%20Board/Level%203%20General/8.a.3.%20Legislative%20update%20with%20Housing%20Bills%20matrix.pdf)

Land Use

Before the Governor:

AB 2222 (Nazarian) addresses the preservation of a residential project, or a condominium project, that qualifies for a density bonus set-aside for affordable housing. This bill would provide an incentive, or concession if a proposed housing project where dwelling units have, at any time in the past 12 months, been occupied by very low- or low-income households or subjects to a public housing program.

However, an applicant may overcome this requirement by providing equivalent affordability and size and/or type of housing units under the density bonus form. This bill increases the required affordability from 30% to 40% for a qualified applicant for a density bonus. The bill is effective January 1, 2020. Governor.

2021-06

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Quoting from <http://www.cityofpaloalto.org/civicax/filebank/documents/53494>



CITY OF
PALO
ALTO

City of Palo Alto (ID # 7205) City Council Staff Report

Report Type: Inter-Governmental Legislative Affairs Meeting Date: 8/22/2016 Summary
Title: Governor's By Right Housing Bill -- Status Update

Title: Status Update and Potential City Responses to the Governor's "By Right" Housing Bill and Pending Bills Addressing Housing Issues

From: City Manager

Lead Department: Planning and Community Environment

From: John Shepardson [mailto:shepardsonlaw@me.com]

Sent: Wednesday, August 17, 2016 1:39 AM

To: BSpector; Marico Sayoc; Steven Leonardis; Rob Rennie; Marcia Jensen; Council; Laurel Prevetti; Robert Schultz; Joel Paulson

Subject: No. 40: Director's Determination (City of LA)

Quoting from the Director's Determination (City of Los Angeles) (emphasis added):

Applicant

Dora Leong Gallo

A Community of Friends 3701 Wilshire Blvd., Ste. 700 Los Angeles, CA 90010

Property Owner

METRO

1 Gateway Plaza, Mail Stop 99-23-4 Los Angeles, CA 90012

Representative

Noah Adler

Craig Lawson & Co., LLC 3221 Hutchison Ave., Ste. D Los Angeles, CA 90034

Los Angeles, CA 90012-4801

VINCENT P. BERTONI, AICP

DIRECTOR

(213) 978-1271

LISA M. WEBBER, AICP

DEPUTY DIRECTOR

(213) 978-1274

JAN ZATORSKI

DEPUTY DIRECTOR

(213) 978-1273 FAX: (213) 978-1275

INFORMATION

<http://planning.lacity.org>

EXECUTIVE OFFICES

200 N. Spring Street, Room 525 City of Los Angeles

CALIFORNIA

ERIC GARCETTI MAYOR

DIRECTOR'S DETERMINATION
DENSITY BONUS AFFORDABLE HOUSING INCENTIVES

DETERMINATION - Density Bonus Affordable Housing Incentives

Case No. CEQA: Location:

Council District: Neighborhood Council Community Plan Area: Land Use Designation: Zone:
Legal Description:

Housing Replacement

With Assembly Bill 2222, applicants of Density Bonus projects filed as of January 1, 2015 must demonstrate compliance with the housing replacement provisions, which require replacement of rental dwelling units that either exist at the time of application of a Density Bonus project or have been vacated or demolished in the five-year period preceding the application of the project. This applies to all pre-existing units that have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; are subject to any other form of rent or price control; or are occupied by Low or Very Low Income Households. Pursuant to the Determination made by the Housing and Community Investment Department (HCIDLA) dated October 15, 2015, no units will need to be replaced with units affordable to Low or Very Low Income Households as there were no residential units on the property for the last five years. [Refer to the Density Bonus Legislation Background section of this determination for additional information.]

DENSITY BONUS LEGISLATION BACKGROUND

The California State Legislature has declared that "[t]he availability of housing is of vital statewide importance," and has determined that state and local governments have a responsibility to "make adequate provision for the housing needs of all economic segments of the community." Section §65580, subs. (a), (d). Section 65915 further provides that an applicant must agree to, and the municipality must ensure, the "continued affordability of all Low and Very Low Income units that qualified the applicant" for the density bonus.

With Senate Bill 1818 (2004), state law created a requirement that local jurisdictions approve a density bonus and up to three "concessions or incentives" for projects that include defined levels of affordable housing in their projects. In response to this requirement, the City created an ordinance that includes a menu of incentives (referred to as "on-menu" incentives) comprised of

eight zoning adjustments that meet the definition of concessions or incentives in state law (California Government Code Section 65915). The eight on-menu incentives allow for: 1) reducing setbacks; 2) reducing lot coverage; 3) reducing lot width, 4) increasing floor area ratio (FAR); 5) increasing height; 6) reducing required open space; 7) allowing for an alternative density calculation that includes streets/alley dedications; and 8) allowing for “averaging” of FAR, density, parking or open space. In order to grant approval of an on-menu incentive, the City utilizes the same findings contained in state law for the approval of incentives or concessions.

California State Assembly Bill 2222 went into effect January 1, 2015, and with that Density Bonus projects filed as of that date must demonstrate compliance with the housing replacement provisions which require replacement of rental dwelling units that either exist at the time of application of a Density Bonus project, or have been vacated or demolished in the five-year period preceding the

The California State Legislature has declared that “[t]he availability of housing is of vital statewide importance,” and has determined that state and local governments have a responsibility to “make adequate provision for the housing needs of all economic segments of the community.” Section §65580, subs. (a), (d). Section 65915 further provides that an applicant must agree to, and the municipality must ensure, the “continued affordability of all Low and Very Low Income units that qualified the applicant” for the density bonus.

With Senate Bill 1818 (2004), state law created a requirement that local jurisdictions approve a density bonus and up to three “concessions or incentives” for projects that include defined levels of affordable housing in their projects. In response to this requirement, the City created an ordinance that includes a menu of incentives (referred to as “on-menu” incentives) comprised of eight zoning adjustments that meet the definition of concessions or incentives in state law (California Government Code Section 65915). The eight on-menu incentives allow for: 1) reducing setbacks; 2) reducing lot coverage; 3) reducing lot width, 4) increasing floor area ratio (FAR); 5) increasing height; 6) reducing required open space; 7) allowing for an alternative density calculation that includes streets/alley dedications; and 8) allowing for “averaging” of FAR, density, parking or open space. In order to grant approval of an on-menu incentive, the City utilizes the same findings contained in state law for the approval of incentives or concessions.

California State Assembly Bill 2222 went into effect January 1, 2015, and with that Density Bonus projects filed as of that date must demonstrate compliance with the housing replacement provisions which require replacement of rental dwelling units that either exist at the time of application of a Density Bonus project, or have been vacated or demolished in the five-year period preceding the application of the project. This applies to all pre-existing units that have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control (including Rent Stabilization Ordinance); or is occupied by Low or Very Low Income Households (i.e., income levels less than 80 percent of the area median income [AMI]). **The**

replacement units must be equivalent in size, type, or both and be made available at affordable rent/cost to, and occupied by, households of the same or lower income category as those meeting the occupancy criteria. Prior to the issuance of any Director's Determination for Density Bonus and Affordable Housing Incentives, the Housing and Community Investment Department (HCIDLA) is responsible for providing the Department of City Planning, along with the applicant, a determination letter addressing replacement unit requirements for individual projects. The City also requires a Land Use Covenant recognizing the conditions be filed with the County of Los Angeles prior to granting a building permit on the project.

Assembly Bill 2222 also increases covenant restrictions from 30 to 55 years for projects approved after January 1, 2015. This determination letter reflects these 55 year covenant restrictions.

Under Government Code Section § 65915(a), § 65915(d)(2)(C) and § 65915(d)(3) the City of Los Angeles complies with the State Density Bonus law by adopting density bonus regulations and procedures as codified in Section 12.22 A.25 of the Los Angeles Municipal Code. Section 12.22 A.25 creates a procedure to waive or modify zoning code standards which may prevent, preclude or interfere with the effect of the density bonus by which the incentive or concession is granted, including legislative body review. The Ordinance must apply equally to all new residential development.

In exchange for setting aside a defined number of affordable dwelling units within a development, applicants may request up to three incentives in addition to the density bonus and parking relief which are permitted by right. The incentives are deviations from the City's development standards, thus providing greater relief from regulatory constraints. Utilization of the Density Bonus/Affordable Housing Incentives Program supersedes requirements of the Los Angeles Municipal Code and underlying ordinances relative to density, number of units, parking, and other requirements relative to incentives, if requested.

For the purpose of clarifying the Covenant Subordination Agreement between the City of Los Angeles and the United States Department of Housing and Urban Development (HUD) note that the covenant required in the Conditions of Approval herein shall prevail unless pre-empted by State or Federal law.

Only an applicant or any owner or tenant of a property abutting, across the street or alley from, or having a common corner with the subject property can appeal this Density Bonus Compliance Review Determination. Per the Density Bonus Provision of State Law (Government Code Section §65915) the Density Bonus increase in units above the base density zone limits and the appurtenant parking reductions are not a discretionary action and therefore cannot be appealed. Only the requested incentives are appealable. Per Section 12.22 A.25 of the LAMC, appeals of Density Bonus Compliance Review cases are heard by the City Planning Commission.

JS:)

From: John Shepardson <shepardsonlaw@me.com>
Sent: Wednesday, August 17, 2016 1:40 AM
To: Council
Subject: No. 40: Specific Plans

<https://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2015/Land-Use-101-Webinar-Paper.aspx>

So what is a Specific Plan and what is the point?

For some, the concept of a Specific Plan is far less familiar and its purpose is not entirely clear. There are no black and white rules governing when a Specific Plan is required. Instead, a Specific Plan is a tool that public agencies and developers use to achieve better specificity on the vision and development potential of a particular tract of land without having to go through extensive site specific land use analysis and entitlement proceedings. It is “programmatic” in nature and usually deals with major infrastructure, development and conservation standards and includes an implementation program. See Gov. Code section 65451. **Often, a specific plan will establish the “look” and “feel” of what future development on the property will be** and it can provide a more clear and refined definition of the parameters in which development will be allowed and the responsibilities for major infrastructure area developers will be expected to fulfill. Specific plans can be very useful to agencies in setting realistic development expectations and signaling important big picture limitations or constraints unique to a particular area; they can be very useful to developers in helping to size the potential and costs of development. (emphasis added)

PRACTICE NOTE: There still appear to be differing practices as to whether a developer’s inclusionary housing triggers the density bonuses or concessions under Govt. Code sections 65915 *et seq.* If there is still any ambiguity in your city’s ordinances, we recommend the city include inclusionary housing within density bonus calculations. See *Latinos Unidos Del Valle De Napa y Solano v. County of Napa*, (2013) 217 Cal. App. 4th 1160 (density bonus is mandatory even if the project only includes affordable housing “involuntarily” to comply with a local ordinance).

John Shepardson

From: Peter Curtis [mailto:pjcurtis_99@yahoo.com]
Sent: Wednesday, August 17, 2016 11:18 AM
To: Council
Subject: Thank You and Please Deny the N40 plan

Town Council Members,

As a ten year citizen of Los Gatos, I appreciate all of the time and effort you have put into surrounding the North 40 plan that Grosvenor has presented.

I also realize that you have heard from a myriad of people about their opinions regarding the project, the reasons why we shouldn't approve it, etc., so I will not rehash any of that at this time.

However, I was surprised to see the post on TOWN NOT CITY's Facebook page that indicates the majority of the council is leaning towards approving the current project plan. I think this would be a terrible mistake based on two simple facts: our own Planning Commission did not support the plan and neither do the majority of towns people.

For those reasons, I make one last request that consider these two facts and vote accordingly. I say this fully realizing that this could lead to legal proceedings between the town and the developer and there is cost associated with this avenue. I would be in support of paying a temporary tax to support the fight, raising a bond measure, etc in order to fight this plan.

Thank you,

Peter

Peter Curtis

15 Orchard Street
Los Gatos, CA 95030

669-262-0122

From: "Jeffrey Aristide" <jeffreynaristide@comcast.net>

To: mjensen@losgatosca.gov

Cc: bspector@losgatosca.gov, msayoc@losgatosca.gov, rennie@losgatosca.gov, sleonardis@losgatosca.gov

Sent: Wednesday, August 17, 2016 5:36:21 PM

Subject: North 40 Development Proposal

Dear Council Member Jensen--I wanted to thank you for your brave standing at the North 40 town meeting, last night, 8/16. You are very brave person. Your professionalism, hard-work and love of our town, has shown through in all your words and actions. You may want to read the poem by Teddy Roosevelt, "The Man In The Arena"...for inspiration. I do feel that we might be closer to resolution, than you and your fellow council members realize. My further thoughts are:

1. The proposal as submitted, does need to be reworked, maybe through a "supplemental addendum process (SDP)". The developer is ready, willing and able to go to the next step...to ensure this project does indeed start.
2. You may continue to have town resistance, if the plan isn't changed...and up-dated, to meet the new and compelling input...I'm sure that the Town Council received, along with the Planning Commission, 1000's and 1000's of inputs, just in the pass few months.
3. Clearly, elective office and politics, is a contact sport. But, if you and the other members of the Town Council are out-right threatened over this issue, I would hope you would have the necessary, and immediate robust police action taken...as unabated threats and abuse...will only get worse...if left unchallenged. Law and order should not be compromised.
4. I'm told the order-of-magnitude (OOM) for this project is \$700,000,000.
5. For this reason, it is best to address any and all issues...before they start pouring cement.
6. I have not seen current polling data--for the North 40, but I do believe the town population stands at:
--30% wants no development,
--10% are for it...in it's present form,
--60% are against it...in it's current form.
7. I have discussed this project with dozens of people in town; doctors, lawyers, business executives...etc.. And, all of them...that's 100%, are against this development in it's present form.
8. Most people I do discuss this with..."do want the North 40, developed and now...not later".
9. I was informed by the developer, that there is a movement, under foot, to purchase the land by the town...at the cost of \$8K per taxpayer.
10. The developer told me that there has been an uptick in other developers interest in this project...though many did shy away, when they learned of the "expected tie-ins required and maybe the town opposition to this project".
11. Now for a most avoided subject. We will surely experience a economic correction/re-set at some point in the future...you remember 2000/2001 and 2008/2009? And we all know the drill; the stock market stalls, then falls...then crashes, the credit markets falter...then freezes...then the lay-offs start...and never seem to stop. The Bay area will not be exempt to this...it will hit the tech and apps industry too. We need to have a "financial review clause (FRC)"...in your approval...that states back-up financing needs to be in place...in order to move the project forward..."should the economy falter". Once the economic re-set happens...all capital projects will slow or stop completely...with maybe the exception of Apple's new headquarters...because they are paying cash for that project. Having a major abandoned project for years...without conclusion, should be avoided at all costs...in my view.
12. In ending, as I'm quite sure, you don't want thirty-five (35) additional points....is the understanding that Public Policy is a most difficult endeavor as:
--most people don't like change,
--most people would like the benefits...without paying for them...the one person, one vote rule,
--most people might/could agree, but just don't put it in their own backyard. Thank-you....Jeffrey N. Aristide

From: jplg159@juno.com [mailto:jplg159@juno.com]

Sent: Wednesday, August 17, 2016 7:10 PM

To: BSpector

Cc: Marico Sayoc; Rob Rennie; Steven Leonardis; Marcia Jensen; Joel Paulson; Planning; Sally Zarnowitz

Subject: North 40

Again, I'm asking you to deny the North 40 development, most of the residents do NOT want the development

as it is. 20 houses on one acre is much to dense. Spread the housing out and keep more open space, what will

developers want to put in the rest of the North 40? More density? The traffic is horrendous as it is, and with the

Good Sam hospital planning 5 and 6 story buildings, it doesn't take an idiot to see what will happen--GRIDLOCK

like we've never seen before, and crime, you can bet the crime rate will go through the roof. Plus the Dell Ave.

development.. God help us! Many residents downtown complain about the Santa Cruz traffic on weekends as it is.

This will only make the traffic even worse.

Don't let the developers bully you into something that will ruin this small Town, they won't have to deal with the

mess they are trying to make. So, let them sue, we have lawyers in this town to, and I bet they would love to tell

the developers to take a hike, try to scare another small town. The developers don't give a dam about how the residents

feel, as long as they can fill their pockets with hundreds of thousands of dollars and laugh all the way back to their

towns!!!

This small town can not handle the traffic and people this will bring.

Please deny them, JUST SAY NO!

Long time resident

From: Anne Roley [mailto:anne@anne4pt.com]
Sent: Thursday, August 18, 2016 1:32 PM
To: Marico Sayoc; BSpector; Marcia Jensen; Steven Leonardis; Rob Rennie
Cc: Joel Paulson; Laurel Prevetti; Attorney
Subject: BULLYING, LAWSUIT, AND SPECIFIC PLAN

Dear Town Council Members

Bullying is defined as “Use superior strength or influence to intimidate (someone), typically to force him or her to do what one wants”

It may be an attorney’s job to send a letter threatening a future lawsuit if the town does not approve their client’s application, but to me this is a form of bullying condoned by the legal system - the threat of a lawsuit tries to intimidate (the town), typically to force the town to do what one wants”.

I do feel that the comments from some of the public were inappropriate and also a form of bullying. I am sorry this process has gotten so contentious.

The writing on the N40 signs along Lark Ave and Los Gatos Blvd is vandalism and against the law.

I disagree with Council Member Marcia Jensen that the threat of a lawsuit should be considered in the decision to approve or deny the current N40 application.

I agree with the Town’s attorney and Council Member Barbara Spector that the decision on the N40 application should **not** be based on the threat of a future lawsuit.

I feel the application for the N40 should be based on the application’s consistency with the N40 Specific Plan.

I believe the Planning Commission based their decision on how the current N40 application adhered to the N40 Specific Plan.

Council Member Marcia Jensen’s presentation seemed thorough, but I don’t understand why the approval of various motions were used as the basis of her argument.

It would have been more interesting for me if the council members went through each section of the Specific Plan and discuss how this current N40 application is or is not compliant with the guiding principles of the Specific Plan.

I feel Council Member Barbara Spector’s motion using various sections in the Specific Plan was more valid.

Rob Rennie’s motion was confusing to me - I really needed some visuals to understand where the changes were being made and how it would eventually look when it was finished.

The Town spent years establishing the N40 Specific Plan document and approved it as the “Bible” for the N40 development. Whether you like the Specific Plan or don’t like the Specific Plan, this N40 application should be evaluated against the N40 Specific Plan document. If you don’t like the Specific Plan as it is now then amend it.

I was also surprised that no one acknowledged the recommendations of the Planning Commission or the staff - whether they were valid reasons for denial or not valid reasons for denial.

Council Member Barbara Spector did touch on a few of the same concerns as the Planning Commission in her motion.

As far as my son and daughter, who both have Master’s degrees - Neither of them can afford the \$900,000 price tag for the proposed homes on the N40, but they might be able to afford a small 600-750 sq. ft. home/rental in the Northern District. It will cost significantly less than what is presently proposed.

I am grateful for everyone’s hard work and service,

Anne Robinson Roley

From: John Shepardson [<mailto:shepardsonlaw@me.com>]

Sent: Thursday, August 18, 2016 4:35 PM

To: BSpector; Marico Sayoc; Steven Leonardis; Rob Rennie; Marcia Jensen; Council; Laurel Prevetti; Robert Schultz; Joel Paulson

Subject: Interpreting Gov. Code Section 65915

(C) Paragraph (3) of subdivision (c) does not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, a city, county, or city and county before January 1, 2015. (emphasis added)

When was the density bonus application made?

What is resubmitted? If so, is the effective date of the application before or after 1/1/2015?

Quoting from <http://losgatosnorth40.com/general-faq/>

While all three districts are included in the Town's Specific Plan, the development team application is focused on the Lark and mixed-use Transition districts. The development team application was submitted in 2013 and **resubmitted in 2015 and 2016 for these two districts and this immediate application is referred to as Phase 1 of the North 40**. Phase 2 is the more commercial Northern district closest to the freeway interchange. (emphasis added)

Quoting from <http://ca-larkspur.civicplus.com/DocumentCenter/View/4454>

Submittal Requirements

As noted in the late mail submitted to the Planning Commission on October 28, 2014, Mr. Hooper has raised objections to portions of the ordinance related to submittal requirements of proposed section 18.25.050.A. Specifically, the objection is to whether it is consistent with the intent of the law to require the developer/applicant to submit detailed information both as to specific concessions and/or incentives requested, as well as to why they are necessary to achieve the required levels of affordability. Staff recognizes that concern as the intent of the law is for the City's to provide the incentives. However the law also makes provisions for the City to approve and/or deny the concessions / incentives based on facts related to the need for such. Staff has reviewed numerous similar ordinances and find that some remain rather vague on this matter and other require similar levels of background information, including financial pro-formas. There does not appear to be one clear 'best practice' in terms of the extent of information that should be provided.

In considering this matter, the City Attorney's office concluded density bonus law allows the City to require the applicant to submit basic evidence showing that the concession or incentive is necessary (in legal terms; the burden of production). It is ultimately the burden of the City to show that an incentive or concession is not required, based on substantial evidence (the burden of proof). Government Code section 65915(d)(1) provides that an applicant for a density bonus may submit a proposal for specific incentives or concessions. The statute continues that the City shall grant the concession or incentive unless the City makes a written finding, based on substantial evidence that:

A) B)

C)

The concession or incentive is not required in order to provide for affordable housing costs ... or for the rents for the targeted units

The concession or incentive would result in a specific adverse impact on public health and safety or on a historical resource and there is no feasible method to mitigate without rendering the development "unaffordable" or

That the concession or incentive would be contrary to state or federal law.

While the City cannot entirely shift the burden onto an applicant to prove that the incentives or concessions are required, 65915(d)(1)(A) does allow the City to make findings that the incentives or concessions are not required. As such, it is not a stretch to require the applicant to submit evidence for the need for the concessions or incentives, even if the burden for proving that the concessions or incentives are not needed falls on the City. (emphasis added)

While staff recommends adoption of the language as proposed, staff is continuing to research alternative practices, should the City Council find that the language is not consistent with the 'spirit' of the density bonus law.

AB 2222; Time Limitations for Agreement and Recognition of Existing Affordable Units

As noted that since the preparation of the draft Ordinance, it has come to staff's attention that AB2222, which introduces recent amendment to the State Law also includes requirements for agreements for affordable rental units to be units to be in effect for no less than 55 years (an increase from 30 years). Staff has amended prior language to specify that agreement for all

affordable units meet this minimum criteria.

Staff has also added language to the text that also requires identification of existing affordable units (up to five years prior to the application) as part of the consideration of a density bonus.

Quoting from http://www.allenmatkins.com/Publications/Legal-Alerts/2014/09/02_09_2014-AB-2222-Density-Bonuses.aspx

Key Provisions of AB 2222

The most important component of AB 2222 is that it prohibits an applicant from receiving a density bonus (and related incentives and waivers) unless the proposed housing development or condominium project would, at a minimum, maintain the number and proportion of affordable housing units within the proposed development, including affordable dwelling units have been vacated or demolished in the five-year period preceding the application. (*See* new Gov. Code §§ 65915(c)(3)(A); 65915.5(g).)

AB 2222 also increases the required affordability from 30 years or longer to 55 years or longer for all affordable rental units that qualified an applicant for a density bonus, and requires replacement rental units to be subject to a recorded affordability restriction for at least 55 years. If the units that qualified an applicant for a density bonus are affordable ownership units, as opposed to rental units, they must be subject to an equity sharing model rather than a resale restriction. Under the prior law, only moderate income affordable ownership units were subject to the equity sharing model. (*See* new Gov. Code § 65915(c)(3)(B).)

This new law does not apply to density bonus applications submitted to, or processed by, a local government before January 1, 2015. (*See* new Gov. Code § 65915(c)(3)(C).)

Practical Considerations

Because AB 2222 affects the ability of certain housing projects to qualify under the DBL, it is essential that developers seeking to invoke the DBL understand the status of the site's existing housing units for the prior several years. If a significant number of affordable units exist (or recently existed) on the site, then the new development must provide at least as many affordable units in order to qualify for a density bonus, even if the project would otherwise have qualified under the DBL's thresholds.

Moreover, developers must recognize that the affordability restrictions will now attach to the property for a longer period of time, which may affect the project's long-term financial return.

Finally, if a multifamily developer is at the early stages of the entitlement process, the developer should be aware of the January 1, 2015 trigger for AB 2222 and act quickly if the provisions of AB 2222 would adversely affect the project's use of the DBL.

Cut & paste from <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=65915-65918>

65915.

(3) (A) An applicant shall be ineligible for a density bonus or any other incentives or concessions under this section if the housing development is proposed on any property that includes a parcel or parcels on which rental dwelling units are or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income; subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households, unless the proposed housing development replaces those units, and either of the following applies:

(i) The proposed housing development, inclusive of the units replaced pursuant to this paragraph, contains affordable units at the percentages set forth in subdivision (b).

(ii) Each unit in the development, exclusive of a manager's unit or units, is affordable to, and occupied by, either a lower or very low income household.

(B) For the purposes of this paragraph, "replace" shall mean either of the following:

(i) If any dwelling units described in subparagraph (A) are occupied on the date of application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those households in occupancy. For unoccupied dwelling units described in subparagraph (A) in a development with occupied units, the proposed housing development shall provide units of equivalent size or type, or both, to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category in the same proportion of affordability as the occupied units. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the

proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(ii) If all dwelling units described in subparagraph (A) have been vacated or demolished within the five-year period preceding the application, the proposed housing development shall provide at least the same number of units of equivalent size or type, or both, as existed at the highpoint of those units in the five-year period preceding the application to be made available at affordable rent or affordable housing cost to, and occupied by, persons and families in the same or lower income category as those persons and families in occupancy at that time, if known. If the incomes of the persons and families in occupancy at the highpoint is not known, then one-half of the required units shall be made available at affordable rent or affordable housing cost to, and occupied by, very low income persons and families and one-half of the required units shall be made available for rent at affordable housing costs to, and occupied by, low-income persons and families. All replacement calculations resulting in fractional units shall be rounded up to the next whole number. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years. If the proposed development is for-sale units, the units replaced shall be subject to paragraph (2).

(C) Paragraph (3) of subdivision (c) does not apply to an applicant seeking a density bonus for a proposed housing development if his or her application was submitted to, or processed by, a city, county, or city and county before January 1, 2015. (emphasis added)

JS:)

From: John Shepardson [mailto:shepardsonlaw@me.com]

Sent: Thursday, August 18, 2016 5:48 PM

To: BSpector; Marico Sayoc; Steven Leonardis; Rob Rennie; Marcia Jensen; Council; Laurel Prevetti; Robert Schultz; Joel Paulson; Don Capobres; Wendi Baker

Subject: No. 40 & Density Bonus Law

7 Cal. Real Est. § 21:10 (4th ed.)

Miller and Starr California Real Estate 4th

June 2016 Update

By Members of the Firm of Miller Starr Regalia

Chapter 21. Land Use, Planning, and Zoning Regulations

C. Zoning and administrative development approvals

Incentives and density bonuses. When a developer agrees to develop a housing project with a specified percentage of the units reserved for lower-income residents, senior citizens, or moderate-income residents in the case of a common interest development, the local agency must provide a density bonus and/or concessions or incentives to the developer.¹¹ The local agency need not provide a concession or incentive to the developer, however, if it makes a written finding based on substantial evidence that the concession or incentive is not required in order to provide for affordable housing, or that the concession or incentive would result in a specific adverse impact as specified on public health and safety, the physical environment, or on any historical property listed in the California Register of Historical Resources.¹²

A local **government** need not grant a density bonus concession or incentive, however, if it makes any one of three specified findings:

- 1. The concession or incentive is not required in order to provide for affordable housing costs, as or for rents for the targeted units to be set as specified in the density bonus law.
- 2. The concession or incentive would have a specific adverse impact upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.
- 3. The concession or incentive would be contrary to state or federal law.¹⁸

Right to waiver of other restrictions. An applicant may ask for a waiver or reduction of development standards that would otherwise physically preclude the construction of qualifying developments with the permitted density bonuses, incentives and concessions.¹⁹ The senior unit density bonus is 20% of the number of senior units included in the development.²⁰ A density bonus exceeding that allowed by state law is allowed if permitted by a local ordinance.²¹

In the event of an inconsistency, the “maximum allowable residential density” is governed by a local **government's** general plan land use element rather than its zoning ordinance.²²

Preemptive effect on local ordinances. The state density bonus law is a powerful tool for enabling developers to include very-low-, low- and moderate-income housing units in their new developments.²³ A “density bonus” is “a density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the [municipality].”²⁴ The purpose of this law is to encourage municipalities to offer incentives to housing developers that will “contribute significantly to the economic feasibility of lower income housing in proposed housing developments.”²⁵ The law expressly prohibits a municipality from applying “any development standard that will have the effect of physically precluding the construction of a development” meeting the statutory criteria for a bonus.²⁶ The law also mandates that local **governments** provide a density bonus when a developer agrees to construct any of the following: (1) 10% of total units for lower income households; (2) 5% of total units for very-low-income households; (3) a senior citizen housing development or mobilehome park restricted to older persons, each as defined by separate statute; or (4) 10% of units in a common interest development for moderate income families or persons.²⁷ The overall purpose, although the details of the statute are more complex, is to “reward a developer who agrees to build a certain percentage of low-income housing with the opportunity to build more residences than would otherwise be permitted by the applicable local regulations.”²⁸ To ensure compliance with the statute, local municipalities are required to adopt an ordinance establishing procedures for implementing the directives of the statute.²⁹

The local agency must give the bonus on top of allowable zoning densities. One of the recurring issues under the statute is whether the affordable units mandated by a city's inclusionary zoning program must be in addition to the units allowed by the underlying zoning and general plan, and whether the local agency is authorized to award waivers of height limits, setbacks and other zoning standards applicable to other market rate projects in order to allow the additional units allocable under the density bonus law. The case law has confirmed that the density bonus is just that, and rejected challenges to project approvals that as a result of the bonus exceed the base zoning and general plan densities allowable for market rate housing.³⁰

Affordable housing increases density bonus. The law establishes a progressive scale in which the density bonus percentage available to an applicant increases based on the nature of the applicant's offer of below market-rate housing. In general, proposed projects reserving a minimum of 10% of total units for moderate-income households receive a 5% density bonus, with every additional percentage point increase in applicable units above the minimum—up to 40%—receiving a 1% increase in the density bonus, up to a maximum 35% bonus.³¹ Developers agreeing to construct a minimum of 10% of units for low-income households are eligible for a 20% density bonus, and the multiplier for each additional increase in units above the minimum amount—up to 20%—is 1.5%.³² A similar scale applies to construction of very-low-income units, except that the minimum 20% density bonus kicks in when only 5% of units are reserved for this classification, and the multiplier for each additional percent increase in units above the minimum amount—up to 11%—is 2.5%.³³ Finally, for a senior housing development or age-restricted mobilehome park, the density bonus is 20% of the number of senior housing units.³⁴

Required restrictions to affordable housing rentals. In order to qualify for the bonus, an applicant must agree to, and the municipality must ensure, the “continued affordability of all low- and very low income units that qualified the applicant” for the density bonus, for 30 years or longer if required by certain programs, including a rental subsidy program.³⁵ The statute provides for rents to be set at an affordable rent as defined by the separate provisions of the Health and Safety Code.³⁶ As a general rule, these restrictions are in the form of recordable restrictions that set forth the limitations on rental and provisions for administering and qualifying tenants for occupancy under the affordability standards established in the process of awarding the density bonus.

From: John Shepardson [<mailto:shepardsonlaw@me.com>]
Sent: Thursday, August 18, 2016 6:08 PM
To: BSpector; Marico Sayoc; Steven Leonardis; Rob Rennie; Marcia Jensen; Council; Laurel Prevetti; Robert Schultz; Joel Paulson; Don Capobres; Wendi Baker
Subject: Re: No. 40 & Density Bonus Law

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DIVISION OF HOUSING POLICY DEVELOPMENT

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053

(916) 323-3177 / FAX (916) 327-2643 www.hcd.ca.gov

A handwritten signature in black ink that reads "Cathy E. Creswell". The signature is written in a cursive style with a large, looped initial 'C'.

Quoting from

[http://qcode.us/codes/napa/?view=desktop&topic=city of napa municipal code-17-17 52-17 52 130](http://qcode.us/codes/napa/?view=desktop&topic=city%20of%20napa%20municipal%20code-17-17%2052-17%2052%20130)

17.52.130 Density bonus.

- A. Purpose. The purpose of this section is to implement requirements of the State Density Bonus Law (California Government Code Title 7, Division 1, Chapter 4.3, Sections 65915, et seq.), and the city's Housing Element by specifying how the city shall provide density bonuses and other incentives, concessions, or waivers for certain housing projects affordable to lower income, very low income, senior citizen housing, moderate income condominium projects, and child care facilities.
- B. Definitions. All terms used in this section shall be interpreted in accordance with this code except to the extent otherwise defined and interpreted in accordance with the State Density Bonus Law.

“Affordable units” mean and are limited to those dwelling units which are required to be rented at affordable rents or sold at an affordable sales price to households of specified income levels as described in Section 15.94.050.

“Concession or incentive” is as defined in the State Density Bonus Law (see Government Code Section 65915, Subdivision (d), and Section 65915, Subdivision (k)).

“Condominium project” is as defined in Civil Code Section 1351, Subdivision (f).

“Density bonus” means a density increase over the otherwise maximum allowable residential density under the applicable zoning ordinance and land use element of the general plan as of the date of application by the applicant to the city, as defined in the State Density Bonus Law (see Government Code Section 65915, Subdivision (f); and Section 65917.5, Subdivision (a), Paragraph (2)).

“Director” means the Community Development Director, or a designee of the Community Development Director or the City Manager.

“Large project” means a “housing development” (as defined by the State Density Bonus Law), generally consisting of five or more dwelling units (see Government Code Section 65915, Subdivision (i)).

“Lower income households” are as defined by Health and Safety Code Section 50079.5.

“Moderate income households” is as defined by Health and Safety Code Section 50093.

“Planned development” is as defined in Civil Code Section 1351, Subdivision (k).

“Small project” means a project that includes the construction of fewer than five duplexes or triplexes in a zoning district that allows for the construction of duplexes and triplexes.

“State Density Bonus Law” means California Government Code Sections 65915 through 65918.

“Very low income households” are as defined by Health and Safety Code Section 50105.

C. Large Project Applications.

1. In order to submit a complete application to the city for a density bonus and other concessions or incentives for a large project, in accordance with the State Density Bonus Law, the application shall satisfy the following requirements:

- a. Identify the section and/or subdivision of the State Density Bonus Law under which the application is made (see Government Code Section 65915, subdivision (b), paragraph (2) for requirements related to lower income households, very low income households, senior citizen housing development, and moderate income common interest development; see Government Code Section 65915, subdivision (h) for donations of land; see Government Code Section 65915, subdivision (h) for child care facilities; and see Government Code Section 65915.5 for conversion of apartments to condominium projects).

- b. Quantify the total density bonus requested, along with the factual and legal basis for the request in accordance with the State Density Bonus Law and this code.
- c. Identify any concessions or incentives requested by the applicant, along with the factual and legal basis for the request in accordance with the State Density Bonus Law and this code.
- d. Identify any waivers, reductions, or modifications of development standards requested by the applicant, along with the factual and legal basis for the request in accordance with the State Density Bonus Law and this code.
- e. Provide a preliminary sketch plan showing the context and compatibility of the proposed project within the surrounding area, the number, type, size, and location of buildings, and parking. The design of proposed affordable dwelling units shall be compatible with the market-rate dwelling units within the project.
- f. Provide information satisfactory to the Director to enable the city to determine whether the requirements of the State Density Bonus Law and this code have been met by the applicant, including, for example, the project cost per unit and whether any requested incentive or concession is necessary to make the housing units economically feasible. (See Government Code Section 65915, subdivision (d).) Such information may include capital costs, equity investment, debt service, projected revenues, operating expenses, and any other information deemed necessary by the Director.

2. The Director shall review the information provided by the applicant and shall make a recommendation to the decision-making body for the proposed project regarding the density bonus and any requested concessions, incentives, waivers, reductions, or modifications; or, alternatively, shall report to the decision-making body for the proposed project the bases upon which the Director recommends finding that the requested density bonus, concession, incentive, waiver, reduction, or modification is not authorized under the State Density Bonus Law and this code. To the extent the Director recommends the grant of a density bonus, concession, incentive, waiver, reduction, or modification, any such grant shall be conditioned upon the applicant's compliance with all relevant obligations set forth in the State Density Bonus Law and this code.

3. The decision making body for the proposed project shall also make the final decision on behalf of the city related to any application submitted in accordance with this section, based on the Director's recommendation, and based on substantial evidence. Provided, however, the decision making body for any density bonus for a large project shall be made by the City Council.

4. The developer shall pay any fee(s), as established by resolution of the City Council to implement this section, including, but not limited to, fees to process the request for a density bonus and/or other concessions, incentives, or waivers; prepare contracts and other documents; and monitor contracts and documents for compliance. Fees shall be paid prior to building permit issuance unless otherwise established by resolution.

5. Affordable units under this section shall be constructed at the same time as the market-rate units. The right to a density bonus or any other concession, incentive, or waiver under this chapter shall not be transferred to another development. Where a developer proposes to simultaneously develop two or more parcels in the city, nothing in this section shall prohibit the city from using a density bonus and/or concession/incentive granted for one of the parcels on another of the multiple parcels.

6. The developer and/or property owner shall provide the city a yearly accounting of the total project units occupied and vacant, the total occupied and vacant units designated for lower income households or very low income households, and rents charged.

D. Small Project Requirements. An applicant may request a density bonus to construct a duplex or triplex in any residential district where duplexes and triplexes are allowed subject to meeting the following requirements.

1. The total number of units in the overall project is fewer than five.

2. No more than two such duplex or triplex buildings shall be constructed per block in accordance with this section.

3. Any duplex or triplex unit that exceeds the general plan pod density range shall be affordable to very low income households or lower income households.

4. The design of designated units shall be compatible with the nondesignated units within the project.

5. The duplex or triplex shall meet residential design guidelines and other city zoning standards.

6. The developer and/or property owner shall enter into an agreement with the city to ensure the continuing affordability of units designated for lower income households and very low income households for a term of at least 30 years.

7. The developer and/or property owner shall provide the city with a yearly accounting of the total occupied and vacant units designated for lower income households or very low income households and the rents charged.

E. Land Donation.

1. If an application for a large project submitted pursuant to this section includes a request for a density bonus based on an offer to donate land in accordance with the State Density Bonus Law (see Government Code Section 65915, Subdivision (g)), then a complete application shall (in addition to other requirements of this section) satisfy the following requirements:

a. Identify the gross size and location of the parcel to be donated, along with the amount of developable acreage;

b. Identify a preliminary plan for development of at least 40 units affordable to very low income households on the developable acreage;

c. Describe the public facilities and infrastructure that would serve the units on the donated parcel;

d. Identify the name of the public or private entity to whom the parcel will be donated;

e. Identify the means by which the parcel will be donated no later than the date of approval of the final subdivision map, parcel map, or residential development application.

2. The city shall approve, modify or disapprove the application to donate land in accordance with the requirements of this section and the State Density Bonus Law (see Government Code Section 65915, Subdivision (g)).

3. Unless the construction of at least 40 units affordable to very low income households on the donated land are the subject of a separate development application, the units shall be considered a part of the application for a tentative subdivision map, parcel map, or other residential development for purposes or review under the California Environmental Quality Act and other state and local laws and regulations.

F. Supplemental Density Bonus. Density bonuses (or additional incentives or concessions) in excess of the maximum amount provided for under the State Density Bonus Law may be granted by the decision making body for the proposed project up to a maximum total of 100%. Developers wishing to apply for supplemental density bonuses, additional incentives or concessions shall provide evidence in their development application demonstrating that the proposed development project either provides affordable units in excess of the maximum percentage of affordable housing units for the different housing types set forth under the tables contained in California Government Code Section 65915(f), or that the proposed project incorporates amenities or public benefits that justify an increase over the maximum bonus provided for under the State Density Bonus Law. The Director shall review the proposed supplemental density bonus application materials and make a recommendation to the decision making body for the proposed project. In determining whether to exercise discretion and approve a supplemental density bonus under this subsection, the decision making body for the proposed project may consider the following criteria: the provision of affordable units in excess of the requirements for the maximum density bonus under the State Density Bonus Law, high quality design that fits within the surrounding neighborhood, superior mitigation of potential impacts on neighborhoods, provision of on-site underground parking, other project amenities or public benefits that contribute to the surrounding neighborhood or further the purposes and objectives of Chapter 15.94, or the inclusion of attractive and functional common space areas. (O2010 3, 1/26/10; O2011 2, 1/18/11)

<http://www.codepublishing.com/CA/Capitola/html/Capitola18/Capitola1803.html>

18.03.090 Application.

 SHARE   

An application for a density bonus, incentive, concession, waiver, modification, or revised parking standard pursuant to this section shall be submitted in conjunction with the first application for the development project and shall be processed concurrently with all other

applications required for the project by the Capitola Municipal Code. The cost of reviewing any required data submitted as part of the application in support of a request for a concession or incentive, including but not limited to the cost to the city of hiring a consultant to review said data, shall be borne by the applicant. The application shall be submitted on a form provided by the city and shall include, at a minimum, the following information:

A. A site plan showing the total number of units, the number and location of the affordable or senior units qualifying the project for a density bonus, and the number and location of the proposed density bonus units;

B. The level of affordability of any proposed affordable units and their conformance with Section 65915(c);

C. A description of any requested incentives, concessions, waivers, or reductions of development standards, or modified parking standards. An application for an incentive or concession shall also include a pro forma demonstrating to the city that the requested concession or incentive results in an identifiable, financially sufficient, and actual cost reduction. Where the applicant is requesting the reduction or waiver of a development standard, the applicant shall submit evidence demonstrating that the application of the development standard would physically preclude construction of the project at the densities or with the concessions or incentives that the project is entitled to under this section.

Quoting from

https://www.municode.com/library/ca/costa_mesa/codes/code_of_ordinances?nodet=TITLE13PL_ZODE_CHIXSPLAUSRE_ART4DEBOOTIN_S13-154APREPR

• **Sec. 13-154. - Application and review process.**

(a)

Preliminary application. A developer of a qualified housing project and/or child care facility may submit a preliminary application pursuant to this article prior to the submittal of any formal requests for approvals for a housing project development.

Within thirty (30) days of receipt of the application, the planning division shall provide to the applicant, the procedures for compliance with this article, a copy of this article and related policies, the pertinent sections of the State Codes to which reference is made in this article, and an application.

(b)

Submittal. The completed formal application shall include the following information.

(1)

A legal description of the total site proposed for development including a statement of present ownership and present and proposed zoning.

(2)

A letter signed by the present owner stating how the project will comply with State Government Code Section 65915 et seq. and stating what is being requested of the city, i.e., density bonus and specific concessions or incentives. (emphasis added)

(3)

A pro-forma for the proposed project to justify the requested concession or incentive and to establish the land valuation per dwelling unit of bonus units. The applicant shall show that any requested waiver or reduction of a development standard is necessary to make the housing units economically feasible.

(4)

A management plan for complying with the maintenance of the designated units regarding income qualification documentation and rent or sale price documentation.

(5)

Site plan and supporting plans per the planning application submittal requirements.

(c)

Review. The review of an application for a density bonus and concession or incentive request shall be processed as a planning application pursuant to chapter III planning applications. The planning division shall review the application for its conformance with State Government Code Section 65915 et seq. and applicable City Codes and make a report to the planning commission. If the application involves a request for direct financial incentives, then any action by the planning commission on the application shall be advisory only, and the city council shall have the authority to make the final decision on the application.

(Ord. No. 06-7, § 1b., 4-18-06)

Affordable Housing: Law, Policy and Practice

California's Planning Laws for Affordable Housing

Cathy Creswell
State of California
Department of Housing & Community Development



1

Local Housing Planning Framework

- State/Federal requirements for Local Housing Plans
- Housing Element Law
- Least Cost Zoning Law
- Redevelopment Law
- Second Unit Law
- State Density Bonus Law
- Anti-NIMBY law
- Article 34
- Fair Housing Law

2

Related Local Plans

- Housing Elements
- Redevelopment Implementation Plans
- Consolidated Plans (federal)

3

Strong State Role in Land Use re: Housing in California

- The California Legislature & courts have repeatedly indicated in statute & case law that housing is an issue of statewide concern.

4

Housing Element Law

Article 10.6 of Government Code

5

Housing Element: Key Statutory Provisions

- **Review of Previous Element and Public Participation**
- **Housing Needs Assessment: Existing and Projected Housing Needs**
- **Inventory of Resources including Land and Financing**
- **Potential Local Governmental Constraints**
- **Goals, Policies and Implementation Actions**

Review & Revision of Previous Element

- **PROGRESS:** Review results of previous policies, programs, and objectives
- **EFFECTIVENESS:** Analyze difference between projected goals and achievement
- **APPROPRIATENESS:** Describe program changes based on analysis

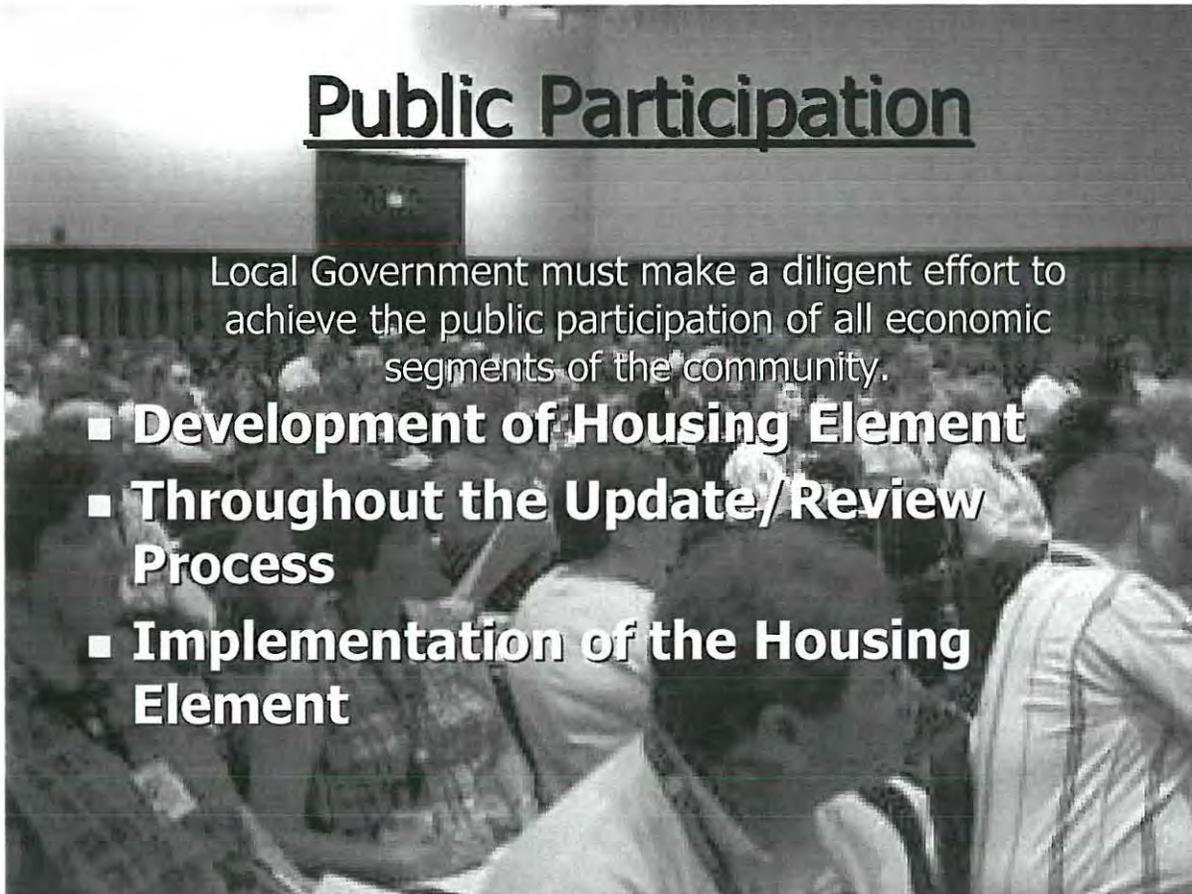


7

Public Participation

Local Government must make a diligent effort to achieve the public participation of all economic segments of the community.

- **Development of Housing Element**
- **Throughout the Update/Review Process**
- **Implementation of the Housing Element**



Housing Needs Assessment

- **Population and Employment**
- **Regional Housing Need**
- **Household and Housing Characteristics**
- **Special Needs**
- **Energy Conservation**
- **Assisted Units At-risk of Converting to Market Rate**



9

Recent Regional Housing Needs Process Changes (AB 2158)

- **Establishes state policy objectives and incorporates and balances broader public policy objectives including increasing the mix of housing types and promoting infill development.**
- **Making the RHNA process more transparent & accessible, especially for local governments, and by providing for input into the methodology development by the COGs.**
- **Promoting better coordination between housing and the regional transportation planning processes.**

10

Land Inventory

- Vacant Land
- Redevelopable Land
- Infill Potential
- Mixed Uses
- Transit-Oriented Development



Land Inventory

Property Listing: Capacity and Characteristics

- Parcel Number or Unique Identifier
- Zoning and General Plan Designation
- Size
- Existing Uses for Non-vacant Sites

Land Inventory Analysis: Suitability and Availability

- **General description of any environmental constraints.**
- **Description of existing or planned water, sewer & other utilities, including the availability and access to distribution facilities.**
- **Map of sites** (For Reference Purposes Only).

13

Land Inventory Analysis

Realistic Capacity (GC 65583.2(c)(1&2))

- **Capacity for each listed property by:**
 1. **Established minimum density or**
 2. **Based on analysis (Typically built densities or policies promoting built densities)**
- **Capacity must be adjusted for land use controls and site improvement standards**

14

Land Inventory Analysis

Densities to accommodate housing for lower income households (GC Section 65583.2(c)(3)):

1. Analysis demonstrating the appropriateness of zone:
 - * Market Demand
 - * Financial Feasibility
 - * Trends within Zones, *Or*
2. Default Densities

15

Land Inventory Analysis:

Suitability and Availability of Non-Vacant Land

- Extent existing uses impede additional residential development.
- Development trends and market conditions.
- Regulatory or other incentives to encourage additional residential.

16

Land Inventory Analysis

Zoning for a Variety of Housing Types

1. Multifamily Rental
2. Emergency Shelters
3. Transitional Housing
4. Farmworkers (Seasonal and Permanent)
5. Factory Built/Manufactured Homes
6. Mobile Homes

17

Examples of Housing/Land Use Strategies

- **Single Family Districts**
 - ✓ Provide more small lot, secondary unit, duplex, and clustered opportunities.
 - ✓ Keep agricultural parcels from becoming residential ranchettes.
- **Multifamily Districts**
 - ✓ Provide broad range of density options.
 - ✓ Include some multifamily area in all new larger subdivisions.
- **Neighborhood Center and Commercial Areas**
 - ✓ Allow greater height and density close to shops, jobs, transportation.
 - ✓ Provide attractive public spaces and access by pedestrians and cyclists.
- **All Districts**
 - ✓ Include potential for affordable units in all areas.
 - ✓ Emphasize good design & predictable process, minimum densities.

18

Compact Housing Models

1. **Compact Single Family Detached**
7 – 21 units per acre
2. **Single Family with Secondary Unit**
17-24 units per acre
3. **Multiple Units, Single Family Appearance**
8-22 units per acre
4. **Rowhouses**
10-40 units per acre
5. **Multifamily Walkup Flats and Apartments**
16-51 units per acre
6. **Multifamily Elevator Apartments**
21-236 units per acre

19

Planning for a Mix of Housing Types

	Los Angeles Region	Bay Area Region	Sacramento Region	San Diego Region
5-10 units per acre				
10-20 units per acre				
20-30 units per acre				
30-50 units per acre				
50+ units per acre				

20

Sources: Caltrans, HCD, Local Government Commission

Diversity in Manufactured Design



1 & 2 Story Designs



Town homes (Harriet Lane)
City of West Sacramento



21

Potential Governmental Constraints



- Land Use Controls
- Building Codes and Their Enforcement
- Site Improvements
- Fees and Exactions
- Permit and Processing Procedures
- Impact on Housing for Persons with Disabilities

22

Housing Programs

- Specific commitment to implement
- Timeframe/Deadline
- Agency Responsible

23

Housing Programs

- Adequate Sites
- Facilitate Development of Housing for Low & Moderate Income Households
- Remove/Mitigate Constraints
- Conserve/Improve Existing Stock
- Preserve Units at Risk
- Promote Equal Housing Opportunities

24

Housing Programs: Adequate Sites

- Identify sites to meet any portion of Regional Housing Need not addressed in the inventory: In total or by income level.
- Ensure sites to accommodate housing for farmworkers, emergency shelters and transitional housing.

25

Housing Programs: Adequate Sites

Program (GC Sections 65583(c)(1) and 65583.2(h))

Must:

1. Accommodate 100% of Remaining Lower Need.
2. Be By Right
 - No CUP, PUD or Other Discretionary Review Triggering “Project” under CEQA
 - Design Review is Allowed as Long as “Project” not Triggered under CEQA
3. Permit At Least 16 Units Per Site
4. Have a Minimum Density of 16 or 20 Units Per Acre
5. Accommodate At Least 50% of the Remaining Need on Residential-Only Sites

26

Other General Requirements

- **Consistency with other general plan elements.**
- **Housing element submission to water and sewer providers and priority service to housing for lower income households (GC 65589.7).**
- **Reporting on housing in coastal zone.**

27

Housing Element Updates Create Opportunities

- **Increasing Residential Capacity and Variety of Housing Choices.**
- **Addressing special housing needs.**
- **Reviewing and Updating Local Ordinances.**
- **Identifying and Modifying Outdated Policies.**
- **Establishing and Maintaining Partnerships.**
- **Supporting and Promoting Efficient Land Use Patterns.**
- **Engage Community in Choice Dialogs.**

28

Reporting

29

Annual Progress Reports on Housing Element

- Gov. Code Sec. 65400 requires cities and counties to annually report on their progress in implementing their housing element.
- Must submit reports to local legislative body, OPR and HCD.
- HCD regulatory process for reporting forms in 2006.

30

Federal Consolidated Plan

Redevelopment Law

31

**Other State
Housing and
Planning Laws**

32

Other State Housing and Planning Laws

- **Redevelopment Law**
- **State Density Bonus Law (GC 65915)**
- **Second Unit Law**
- **Anti-NIMBY (GC 65589.5)**
- **No Net Residential Capacity Loss (GC 65863)**
- **Limited Conditional Use for Multifamily in Multifamily Zones**
- **Least Cost Zoning**
- **Article 34**
- **Fair Housing**

33

Redevelopment Law

34

RDA Requirements

1. Redevelopment Plan:

- Generally effective for 30 years
- Update required every 5 years
- Must be consistent with General Plan

2. Low-Mod Fund:

- Set-aside at least 20% of Property Tax Increment
- Increase, improve, & preserve supply of low & moderate income housing
- Replace low & moderate income housing destroyed as a result of a RDA project

35

RDA Project Area Housing Production Requirement

Project Area Units (Construction/Rehabilitation):

- **Agency Developed: 30% Inclusionary:**
At least 50% must be very-low income units
- **Non-Agency Developed: 15% Inclusionary**
At least 40% of must be very-low units
- **Owner Units: Remain Affordable for 45 years**
- **Renter Units: Remain Affordable for 55 years**
- **2 for 1 Unit Requirement for Outside a Project Area**

36

Low-Mod Funds Draft 04/05

- **Ending Equity: \$3 Billion**
- **Deposits: \$1.2 Billion** (\$700m is 20% set-aside)
- **Expenditures: \$960 Million**
 - **54% Affordable Units:**
 - *Acquisition: (19%)*
 - *Construction: (11%)*
 - *Rehabilitation: (8%)*
 - *Preservation/Subsidies/Other: (16%)*
 - **32% Debt Service**
 - **14% Planning & Administration**

37

Low-Mod Funds Draft 04/05

- **Households Assisted: 20,536**
 - *Very-Low: 9,118 (44%)*
 - *Low: 6,073 (30%)*
 - *Moderate: 1,943 (10%)*
 - *Other HHs by Other Funds: 3,402 (16%)*

38

Density Bonus Law

39

State Density Bonus Law

Government Code Section 65915

- Requires local governments to provide density increases and reduce regulatory barriers to housing to promote supply and affordability
- SB 1818 Changes
 - Lowers Eligibility Criteria
 - Adds Seller Recapture for Moderate Income
 - Prescribes the Number of Incentives and Concessions
 - Creates a Sliding Scale Density Bonus based on Affordability
 - Establishes Parking Limits Upon Request

40

Second Unit Law

41

Second Unit Law

Government Code

- **Requires local government to establish process to consider second units.**
- **Requires ministerial approval.**
- **Requires standards that promote development of second units.**
- **Clarifies how to count second units to meet a local governments share of regional housing need.**

42

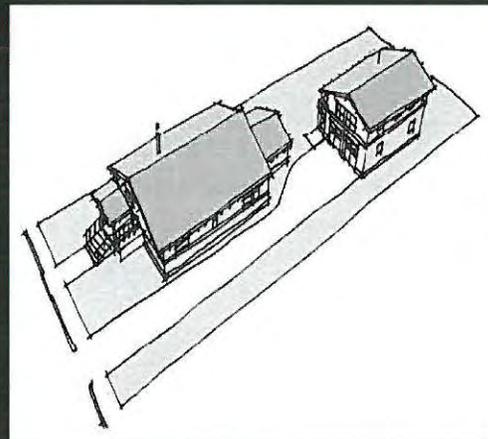
Santa Cruz Accessory Dwelling Unit (ADU) Development Program

The purpose of the City of Santa Cruz Accessory Dwelling Unit (ADU) Development Program is to:

- Implement the development of well-designed ADUs in the City of Santa Cruz;
- Help minimize the impact of population growth on the community by providing more rental housing in the developed core of the City;
- Promote infill development to help preserve the surrounding natural greenbelt;
- Foster the use of public transportation within the City.

43

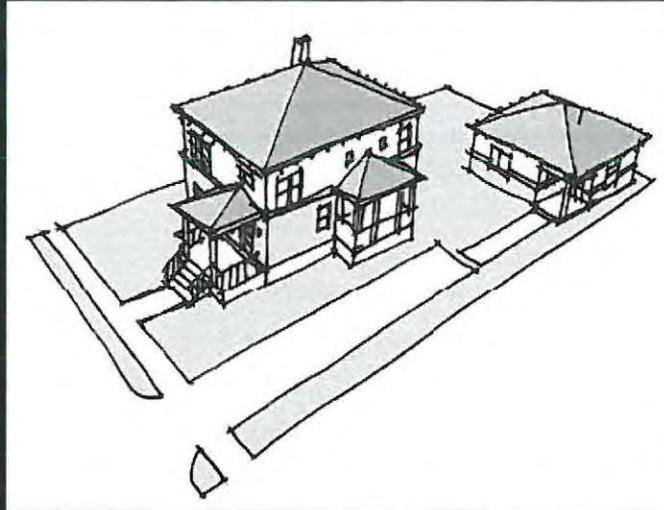
Two Story ADU over Garage



- 5' side yard setback
- 20' rear yard setback
- Parking in garage and driveway

44

One Story Backyard Cottage



- 5' setbacks
- Uncovered parking in driveway

45

Santa Cruz ADU Program Components

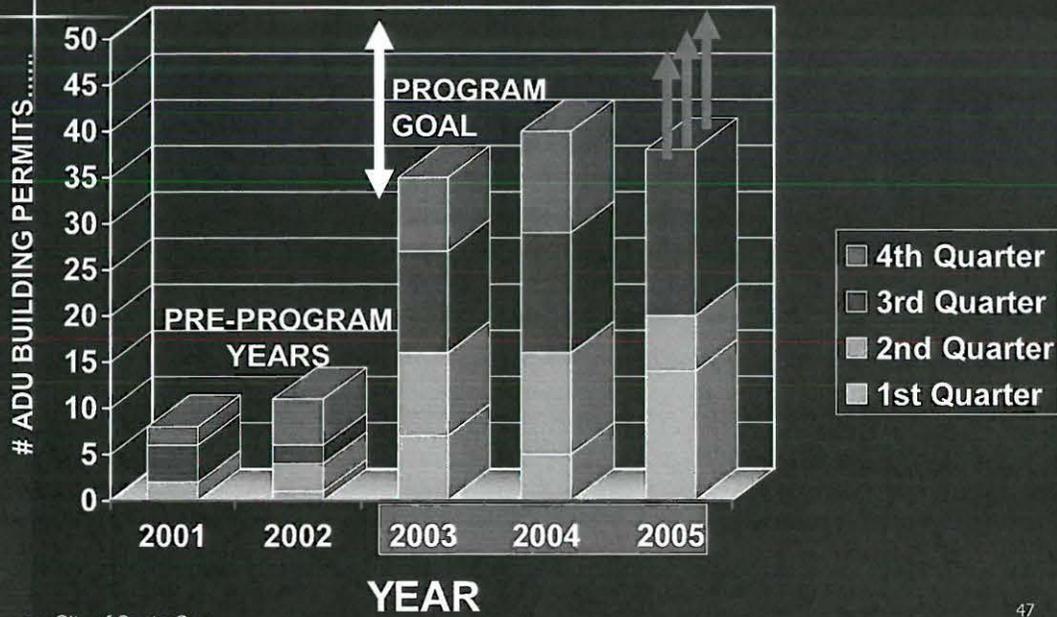
- Technical Assistance Program to assist homeowners in designing an ADU for their property.
 - An ADU Plan Sets Book containing seven ADU prototype concepts designed by local and regional architects;
 - An ADU Manual containing a step-by-step guide on how to plan, design and obtain permits for an ADU;
 - An ADU Video containing highlights from the public workshops; and
 - A Technical Assistance Program to reimbursing homeowners for up to \$100 to hire a building professional to help plan and design an ADU.

A Wage Subsidy and Apprenticeship Program to provide wage subsidies to licensed contractors employing apprentice workers trained by the Women Ventures Project of the Community Action Board on ADUs built within the City.

- An ADU Loan Program offering loans up to \$100,000 through the Santa Cruz Community Credit Union.

46

Demand has Risen ADU Growth in Santa Cruz



47

Anti-Nimby Law

48

Anti-NIMBY Law

Gov. Code Sec. 65589.5

Developments for Low/Mod Households may not be denied unless findings are made:

- Housing Element in compliance and RHNA met and disapproval not based on reasons prohibited by GC 65008.
- Development would have a specific health and safety impact and no feasible way to mitigate.
- Denial is necessary to comply with State and Federal Laws.
- Development is proposed on lands zone Agriculture or Resource Preservation and is surrounding on 2 sides by Agr. or Resource lands.
- Development is inconsistent with the General Plan and Zoning and locality has compliant Housing Element EXCEPT if proposed site is identified in Housing Element to accommodate low or moderate income need. Also if housing element does not identify adequate sites, this finding may not be made.

49

No Net-Loss

50

No Net Loss of Residential Capacity Loss

Government Code Section 65863

- Inventory of adequate sites must be maintained throughout the planning period.
- Prohibition against downzoning/no net loss: limits downzoning of sites identified in housing element unless no net loss in capacity and community can still identify "adequate sites" to address the regional housing need.

51

Limits on Conditional Use Permits for Multifamily

52

Limited CUPs for Multifamily

Government Code Section 65589.4

A multifamily housing project shall be a permitted use, not subject to a conditional use permit, on any parcel zoned for multifamily housing if it satisfies specified criteria.

53

Least Cost Zoning

54

Least Cost Zoning

Government Code Section 65913

- Sufficient land must be zoned for residential use with *appropriate standards*, in relation to zoning for nonresidential use, to meet the housing needs for all income groups.
- *Appropriate standards* mean densities and development requirements *must contribute significantly* to the economic feasibility of producing housing at the lowest possible cost

55

Article XXXIV of the California Constitution

56

Article 34

- Requires public entities to demonstrate voter approval before they develop certain types of low-rent housing projects.
- Most jurisdictions seek voter approval for a specified number or percentage of units, rather than on a project-by-project basis.

57

There are numerous exclusions from Article 34

- Low income housing projects developed by private sponsors with only federal or private funding.
- Private developments with public funding with 49% or less of the units reserved for lower-income households.
- Reconstruction of a previously existing low-rent housing development.

58

Fair Housing Laws

59

Federal & State Fair Housing Laws

Prohibit discrimination by local government and individuals based on race, color, religion, sex, familial status, marital status, national origin, ancestry or mental or physical disability.

60

Fair Employment and Housing Acts

Gov. Code Sec. 12900 et seq. prohibits discrimination through land use practices and decisions that make housing opportunities unavailable.

Similarly, the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq., or "Title VIII") has been held to prohibit land use practices and decisions that have a disparate impact on protected groups.

61

U.S. Fair Housing Amendments Act of 1988

Requires local governments considering housing projects for the disabled to make reasonable accommodations in rules, policies and practices if necessary to afford disabled persons equal opportunity for housing.

(42 U.S.C. Sec. 3604(f)(3)(B)).

62

State Government Code Sec. 65008

Forbids discrimination against affordable or multi-family housing development proposals, developers or potential residents using planning and zoning powers.

Agencies are prohibited not only from exercising bias based on race, sex, age or religion, but from discriminating against developments because the development is subsidized or to be occupied by low or moderate income persons.

63

Government Code Section 65008

No local action may deny tenancy, land ownership, or the enjoyment of residence based on:

- race, sex, color, religion, ethnicity, natural origin, ancestry, lawful occupation, familial status, disability or age,
- Method of financing,
- The intended occupancy by low or moderate income households

64

Government Code Section 65008

Local governments may not enact or enforce ordinances that prohibit or discriminate against housing or emergency shelter because:

- Of the method of financing,
- The owner or intended occupants are members of protected class,
- The housing or shelter is intended to be occupied by low and moderate income households,
- The development consists of multifamily housing, consistent with zoning and general plan even if site has not yet be rezoned to conform with more recent general plan.

65

Government Code Section 65008

- Local governments may not impose different requirements on affordable projects or emergency shelters than those imposed on non-assisted housing.
- Except does not prohibit preferential treatment to facilitate development such as fee reductions, reduced development standards, etc.

66



Keep Up With Housing

News & Publications

67

HCD HOUSING RESOURCE CENTER



**Electronic Publications
Bibliographies:**

<http://www.hcd.ca.gov/hpd/biblio.html>

68



OCTOBER 12, 2005

AFFORDABLE HOUSING

DAVIS ENTERPRISE - To market - too soon - By Beth Curda // When city officials talk about building affordable housing for local employees, Mark Honbo is the type of person they describe. He is a UC Davis employee who grew up here, went to college in town. He had been renting an apartment and wanted to buy a home... <http://www.davisenterprise.com/articles/2005/10/11/news/081new0.txt>

SAN FRANCISCO CHRONICLE - SAN FRANCISCO: Affordable housing proposal – by Cecilia M. Vega // San Francisco Supervisor Chris Daly proposed legislation on Tuesday that would require builders to construct more affordable homes as part of new developments in a city plagued by a lack of affordable housing...
<http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2005/10/12/BAG1OF74N11.DTL>

THE DESERT SUN - Residential development to oust popular RV park: Panel clears way for RV park to be replaced by university-related 'attainable' housing – by K Kaufmann // Palm Desert's popular RV park may soon be replaced with a residential development aimed at providing "attainable" housing for people working at and around the University of California Riverside campus...
<http://www.thedesertsun.com/apps/pbcs.dll/article?AID=/20051019/NEWS05/510190341>

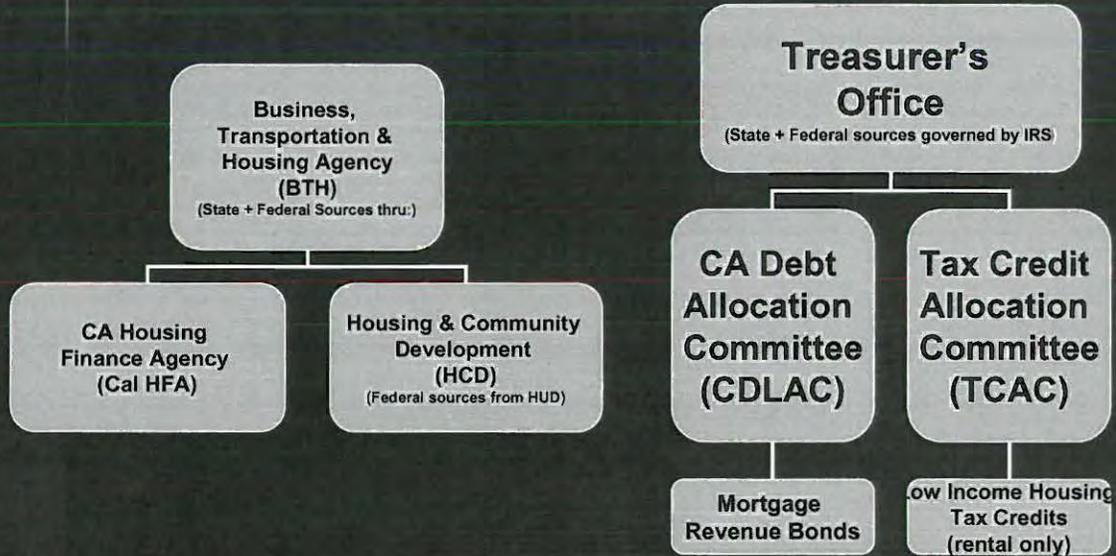
<http://www.hcd.ca.gov/hpd/news/index.html>

69

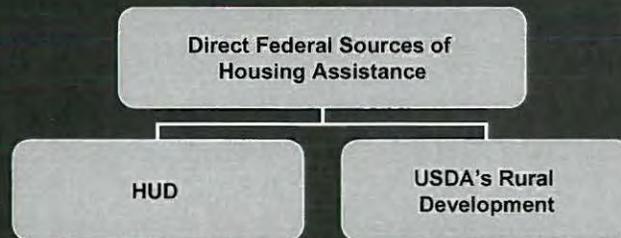
Financing Affordable Housing

70

State Housing Assistance Available on Competitive Basis



Federal Sources



Eligible entities vary by program:

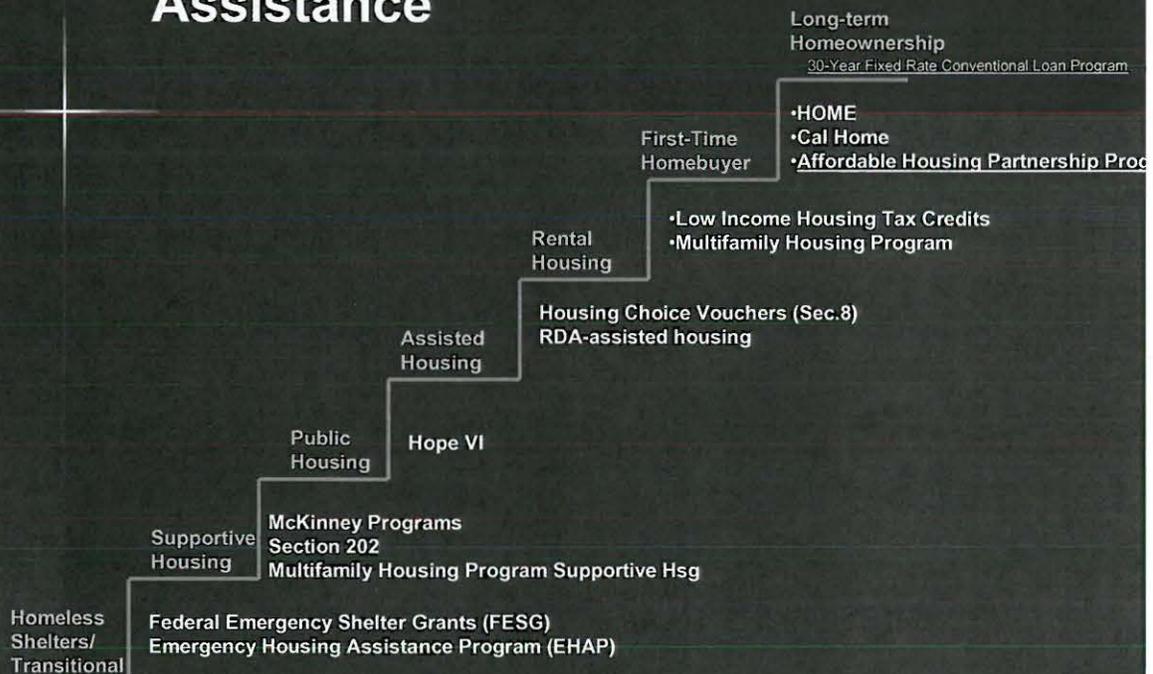
- cities and counties
- nonprofit developers
- for-profit developers

Local Funding Sources

- CDBG and HOME
- Federal Emergency Shelter
- Redevelopment
- Local Housing Trust

73

Continuum of Housing Assistance



74

California Housing Finance Agency INTEREST RATE SCHEDULE ¹ Effective November 4, 2005		Interest Rate ²
35 Year Fixed Mortgage Loan Program		
<i>interest only PLUS</i>		5.75%
30 Year Fixed Mortgage Loan Programs		
Non High Cost Areas		
Moderate Income		5.50%
Low Income ³		5.25%
Nonprofits ⁴ & Affordable Housing Partnership Program (AHPP) – <i>Low Income Only</i>		5.00%
Extra Credit Teacher Program (ECTP)		5.00%
HomeChoice Program		3.00%
Self-Help Builder Assistance Program (SHBAP) ⁴		3.00%
High Cost Areas⁵		
Moderate Income		5.25%
Low Income ³		5.00%
Nonprofits ⁴ & Affordable Housing Partnership Program (AHPP) – <i>Low Income Only</i>		4.75%
Extra Credit Teacher Program (ECTP)		4.75%
HomeChoice Program		3.00%
Self-Help Builder Assistance Program (SHBAP) ⁴		3.00%
DOWN PAYMENT ASSISTANCE PROGRAMS		
Term matches term of first mortgage		
High Cost Area Home Purchase Assistance Program (HiCAP) ⁶		7.00%
CalHFA Housing Assistance Program (CHAP)		7.00%
California Homebuyer's Downpayment Assistance Program (CHDAP)		3.00%
Homeownership In Revitalization Areas Program (HIRAP)		3.00%
Extra Credit Teacher Program (ECTP)		5.00%
HomeChoice CHAP		7.00%

HCD's State-Funded Programs

Proposition 46 Update Through June 30, 2005

	Available Thru Prop 46 (millions)	Awarded as of 6/05 (millions)	Funds Remaining (millions)
Multifamily Housing Program	\$779.0	\$490.6	\$288.4
Supportive Housing Program	\$190.0	\$73.1	\$116.9
Services Space	\$20.0	\$18.3	\$1.7
Student Housing	\$14.5	\$0.0	\$14.5
CalHome	\$96.4	\$71.4	\$25.0
BEGIN	\$72.0	\$24.0	\$48.0
Self Help Housing	\$9.5	\$4.8	\$4.7
EHAP Capital Development	\$186.0	\$98.8	\$87.2
Serna Farmworker Housing	\$106.1	\$98.5	\$7.6
Migrant Housing	\$13.3	\$5.1	\$8.2
Housing w/ Health Services	\$17.5	\$17.5	\$0.0
J/H Balance & Workforce Hsg	\$97.0	\$48.0	\$49.0
Local Hsg Trust Funds	\$23.8	\$23.8	\$0.0
Accessibility Grants for Renters	\$4.7	\$4.7	\$0.0
Preservation Repositioning	\$4.8	\$4.8	\$0.0
Code Enforcement	\$4.8	\$4.8	\$0.0
Totals:	\$1,639.4	\$998.2	\$651.2

Governor's Initiative to End Chronic Homelessness

Links Proposition 46 (Housing) and Proposition 63 (Mental Health).

- HCD: \$40 million over the next three years for development of housing for the chronically homeless.
- Mental Health Services Act: \$3 million for supportive services and rent subsidies.
- CalHFA: Construction financing.

California Housing Finance Agency

- Purchase of loans made for supportive housing.

Interagency Council on Chronic Homelessness

- Meeting with Agency Secretaries and Directors.
- \$125,000 for support of the Council.

77

Income Limits used for:

- setting rents or sales prices
- determining eligibility for occupancy

78

Income Limits are Program-Specific

The screenshot shows the website for the California Department of Housing and Community Development. The main heading is "Housing & Community Development" with a sub-heading "Housing Policy Development". The primary content is titled "1. Official State Income Limits for 2005". Below this, there is a paragraph explaining that California Health and Safety Code Sections 50079.5, 50105, and 50106 provide the state limits for low-, very low-, and extremely low-income categories, which will be the same as those in the equivalent levels established by the U.S. Department of Housing and Urban Development (HUD) for its Section 8 program. It also mentions that HUD released its new FY 2005 income limits effective February 11, 2005. There are two links provided: "2005 HCD State Income Limits (Adobe PDF)" and "2005 Income Limits for California-administered CDBG & HOME (Adobe PDF)". A second section, "2. State CDBG and HOME's Table of 2005 Income Limits", includes a note that the table includes income limits for two federal programs (CDBG and HOME) and that the table includes county-level income limits from HUD's release of 2005 HOME Program Limits effective March 31, 2005. It also states that the table is not intended for use by local jurisdictions that receive these funds directly from HUD.

<http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html>

79

Cal HFA's Sales Price Limits

HOMEOWNERSHIP PROGRAM SALES PRICE LIMITS
Effective 8/12/05

County	NEW CONSTRUCTION		RESALE	
	Non-Targeted	Targeted	Non-Targeted	Targeted
Alameda	\$ 592,765	\$ 724,491	\$ 569,633	\$ 696,218
Alpine	\$ 370,534	None	\$ 370,534	None
Amador	\$ 365,625	None	\$ 365,625	None
Butte	\$ 298,125	\$ 364,375	\$ 298,125	\$ 364,375
Calaveras	\$ 370,125	None	\$ 370,125	None
Colusa	\$ 276,158	None	\$ 276,158	None
Contra Costa	\$ 592,765	\$ 724,491	\$ 569,633	\$ 696,218
Del Norte	\$ 219,375	None	\$ 219,375	None
El Dorado	\$ 370,534	None	\$ 370,534	None
Fresno	\$ 298,125	\$ 364,375	\$ 298,125	\$ 364,375
Glenn	\$ 220,500	None	\$ 220,500	None
Humboldt	\$ 309,375	\$ 378,125	\$ 309,375	\$ 378,125
Imperial	\$ 216,533	\$ 264,651	\$ 216,533	\$ 264,651
Inyo	\$ 354,375	None	\$ 354,375	None
Kern	\$ 270,000	\$ 330,000	\$ 270,000	\$ 330,000

<http://www.calhfa.ca.gov/homeownership/limits/salesprice/salesprice.pdf>

80

Affordable and Beautiful



81

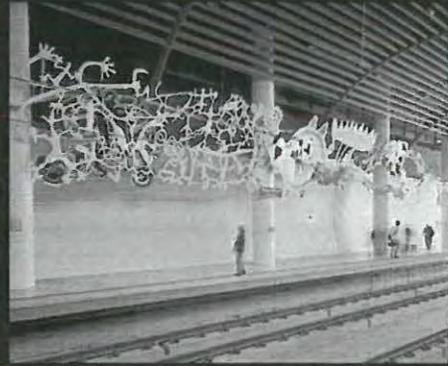
Views at 270 Los Angeles, CA



- The project incorporates 56 units of affordable family housing
- The housing is designed to integrate the residents into an urban village oriented to a town green, while maintaining its connection to Sunset Boulevard
- Pedestrian amenities provided to integrate the project into the community include a freestanding retail structure at the corner, integrated bus shelters and retail kiosks to serve the transit users of the two Rapid Bus lines and nearby Metro subway station
- \$2,671,400 MHP loan

82

Holly Street Village-Memorial Park METRO Station Pasadena



83

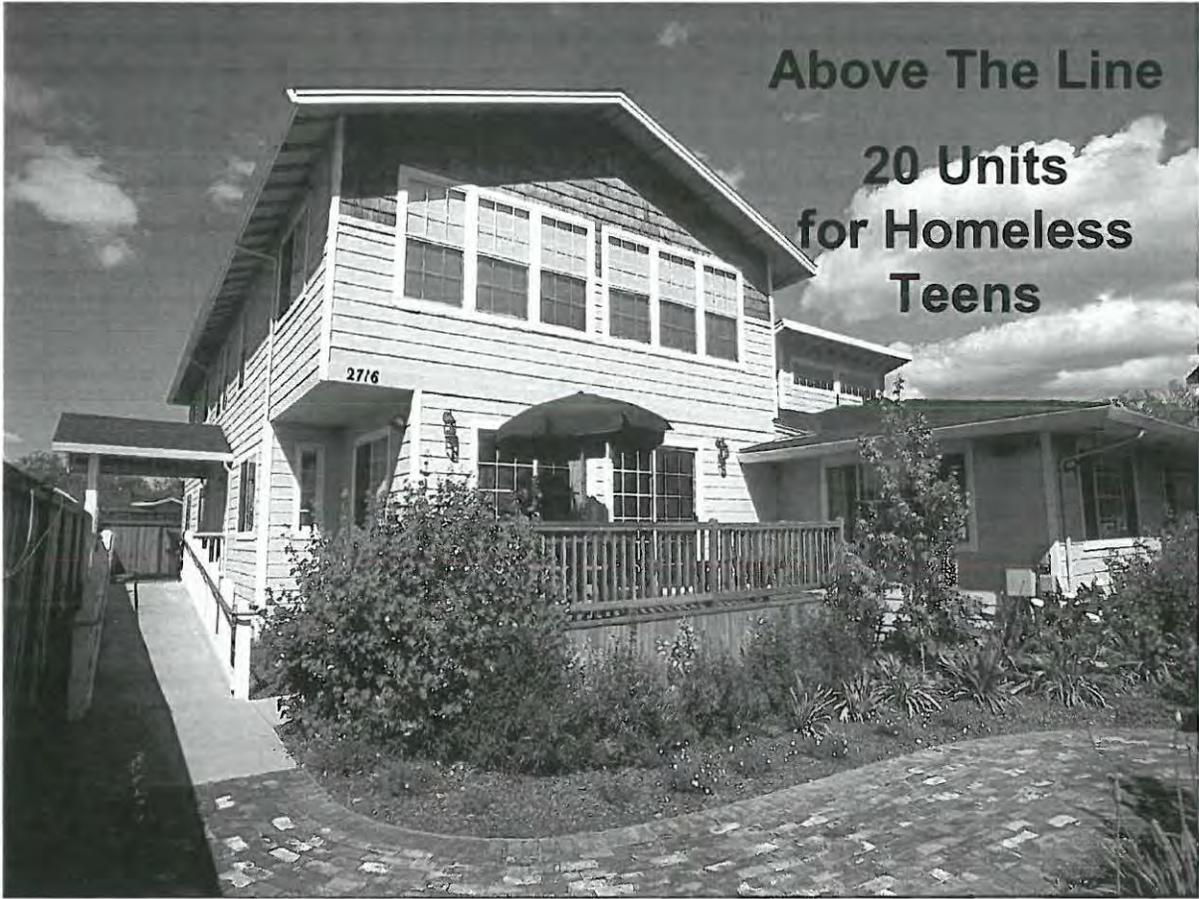


Photo: The Olson Company

Heritage Walk, Pasadena

42 units/acre

84



Manufactured Housing
Manufactured housing production in California has grown from 10th in the nation in 2001 to second in the nation in 2004.



86

Welcome to the Affordable Housing Design Advisor

If you're part of the solution to America's critical affordable housing challenge, this site is for you. The Affordable Housing Design Advisor brings together experience and ideas from successful affordable housing projects all over the country, and the people who developed, designed and built them.

Good design can make a world of difference for the people who will live in the affordable housing you help build, and for the neighborhood surrounding it. The Affordable Housing Design Advisor is here to help you at every step.

- [Quick Guide to Using This Site](#)
- [Brought to You By](#)
- [Credits and Kudos](#)

A tool, resource, idea bank and step-by step guide to Design in affordable housing.

Design is the key to affordable housing that works - for the people who live there and the entire community.



What's New

- [Green Housing - It's Here!](#)
- [AIA Affordable Green Guidelines](#)
- [AIA / HUD Secretary's Housing and Community Design Awards Call for Entries](#)

WHAT is good design?

DESIGN CHECKLIST

Hin-nu Terrace



These 92 town homes and apartments, for families and seniors with low and very low incomes, mend a deteriorating neighborhood by restoring its main boulevard with housing over shops. Family housing with a childcare center around quiet courtyards is built behind a ground-floor market, niches for street vendors, and a community center with job training, all

contribute to economic development in the neighborhood. A multi-ethnic mix of depicted in exterior murals, frieze panels, decorative tiles, and steel entry gates in the rust of sunshine.

ors and the architect wanted to recreate the er pattern of mixed-use - two to three story uth retail below and housing above - as an good planning for future developers in the od. The architecture is an interpretation of vival Style, recalling the graceful three and apartment buildings in the neighborhood. oofs, trellised balconies and warm colored ate a solid yet lively street front building an boulevard. Behind, in the quieter interior courtyards, vivid colors define the amily town homes clad in cool blue horizontal siding. Lush foliage overflows planters, ie places where children play.



HISMEN HIN-NU TERRACE, Oakland, California

SPONSORS

The East Bay Asian Local Development Corporation
San Antonio Community Development Council

ARCHITECT

Design Architect: [Pvatok Associates](#)
Architect of Record: [The Ratcliff Architects](#)

LANDSCAPE ARCH:

[Chris Patillo Associates](#)

CONTRACTOR

[James E. Roberts/Ohbayashi Corp.](#)

FUNDERS:

City of Oakland RDA
Calif. Dept. of HCD
Calif. Comm. Reinvest. Corp.
Wells Fargo Bank
Bank of the West/Bank of Calif.
FNMA & CASH, Inc.
CDBG & Nat. Endowment for the Arts
Ford Found'n & James Irvine Found'n

TYPE:

Const./Perm. Loan
Const./Perm. Loan
Const./Perm. Loan
Const. Loan
Bridge Loan
Syndication
Grants
Grants

RESIDENT PROFILE:

Singles, couples & families with incomes \$19,350 - \$43,800 (family of 8) per year. Incomes between 50%-60% of AMI

DEVELOPMENT TYPE:

New Construction Mixed-use Rental housing; flats and townhouses over parking and retail/commercial;

DENSITY: Flats: 85 units/acre; T'houses: 35 units /acre

Look for Partners . . .

89

Look for Partners . . .

Nonprofit Housing Development and Shelter Organizations

[Affordable Housing Advocates, Santa Cruz](#)

[Affordable Housing Affiliation, Benicia](#)

[Affordable Housing Clearinghouse, Orange County](#)

[Allied Housing, Hayward](#)

[Beyond Shelter](#)

[BRIDGE Housing Corporation](#)

[Cabrillo Economic Development Corporation, Ventura/Santa Barbara](#)

[California Housing Partnership Corporation](#)

[Calistoga Affordable Housing, Inc.](#)

[Century Housing Corporation, Los Angeles](#)

California Housing Law Project

<http://www.housingadvocates.org/default.asp?ID=111>

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**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

1800 Third Street, Suite 430
P. O. Box 952053
Sacramento, CA 94252-2053
(916) 323-3177
FAX (916) 327-2643



July 10, 2006

Mr. James E. Hart
1337 Josephine Street
Berkeley, CA 94703-1113

Dear Mr. Hart:

RE: Application of State Density Bonus Law

This letter responds to your May 24, 2006 correspondence regarding a project and request pursuant to Government Code Section 65915 et. seq., State density bonus law (SDBL). The Department of Housing and Community Development (Department) appreciates the opportunity to respond to this inquiry.

The Department understands the application proposes to reserve 20 percent of the units for occupancy by moderate-income households, and requests the two concessions or incentives to contribute to the feasibility of the housing development as authorized by SDBL. The units for moderate-income households must meet the criteria specified in subsections (b) and (c) of Section 65915 in order to be eligible for the use of SDBL.

Local governments have a responsibility to significantly contribute to the feasibility of developing housing for lower- and moderate-income households, including granting incentives or concessions even where an applicant has not elected to accept a density bonus under SDBL. This responsibility is expressed in the intent language of SDBL, Government Code Section 65917, as well as other State housing and planning statutes including housing element law, in particular, Government Code Sections 65583(c) 2 and 3 and Government Code Section 65913 et. al. Further, subsection (g) of Section 65915 expressly allows an applicant to elect a lesser density bonus. Although subsection (b) states a city or county shall grant a density bonus and concessions or incentives for qualifying projects, an applicant is not required to request both a density bonus and a concession in order to be eligible for the other. Interpreting the statute to require a developer to request both a density bonus and a concession or incentive is clearly inconsistent with subsections (b) and (g), and is further contradictory to the intent of the law. This is particularly true whereby the requirement to incorporate the additional bonus units would jeopardize project feasibility.

Mr. James E. Hart
Page 2

Further, an applicant is not explicitly required to submit financial data such as a financial proforma under SDBL and particularly where the application is requesting the entitled concessions and incentives under subsection (d) of Government Code Section 65915. However, an applicant might be required to submit general financial data to demonstrate a waiver or reduction is necessary to make housing units economically feasible, but when requesting a waiver or reduction under subsection (e) due to local development standards that preclude a development eligible under SBDL.

The Department hopes this information is helpful to address housing needs in Berkeley. If you have any questions or need additional assistance, please contact Paul McDougall at (916) 445-5854.

Sincerely,



Cathy E. Creswell
Deputy Director

From: John Shepardson [<mailto:shepardsonlaw@me.com>]

Sent: Thursday, August 18, 2016 6:16 PM

To: BSpector; Marico Sayoc; Steven Leonardis; Rob Rennie; Marcia Jensen; Council; Laurel Prevetti; Robert Schultz; Joel Paulson; Don Capobres; Wendi Baker

Subject: No. 40 Density Bonus (Timing of Application: City of LA Memo)

QUOTING FROM (WITH EMPHASIS) [HTTP://PLANNING.LACITY.ORG/OTHERS/AB2222MEMO.PDF](http://PLANNING.LACITY.ORG/OTHERS/AB2222MEMO.PDF)

TIMING

FOLLOWING JANUARY 1, 2015, ALL SUBMITTALS WILL NEED TO ADHERE TO THE NEW AB 2222 REQUIREMENTS. AB

2222 SPECIFIES THAT THE HOUSING REPLACEMENT PROVISIONS DESCRIBED ABOVE DO NOT APPLY IF AN "APPLICATION

WAS SUBMITTED TO, OR PROCESSED BY" THE CITY BEFORE JANUARY 1, 2015. AS DISCUSSED BELOW, THE CITY WILL

ACCEPT APPLICATIONS UNDER THE CURRENT (PRE-AB 2222) PROVISIONS IF AN INITIAL DENSITY BONUS APPLICATION TO

EITHER DCP OR HCIDLA HAS BEEN SUBMITTED ON DECEMBER 31, 2014 OR BEFORE. THE FOLLOWING DESCRIBES IN

MORE DETAIL WHAT IS CONSIDERED A SUBMITTAL FOR THE TWO MAJOR TYPES OF DENSITY BONUS PROCESSES.

1.

MINISTERIAL ("BY-RIGHT") DENSITY BONUS PROJECT:

IF THE LOS ANGELES DEPARTMENT OF BUILDING AND SAFETY (LADBS) DETERMINES A PROJECT IS BY-RIGHT

(MEANING IT MEETS THE ZONING CODE, AND DOES NOT REQUIRE ANY ON OR OFF MENU INCENTIVES) THEN NO

PLANNING APPLICATIONS ARE NECESSARY. HOWEVER, DENSITY BONUS APPLICANTS MUST COMPLETE AN

"APPLICATION FOR BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY" WITH LADBS. IN ORDER TO BE

CONSIDERED AN APPLICATION "SUBMITTED TO OR PROCESSED BY THE CITY", THE LADBS APPLICATION MUST

BE COMPLETED IN ITS ENTIRETY WITH ANY AND ALL REQUIRED DOCUMENTS ATTACHED, AND ANY AND ALL

APPLICABLE FEES PAID IN FULL. ONCE THE AFOREMENTIONED REQUIREMENTS HAVE BEEN MET, LADBS WILL

ISSUE A RECEIPT TO THE APPLICANT. THE DATE OF RECEIPT ("DATE OF RECEIPT") WILL CONSTITUTE THE

"SUBMITTED AND PROCESSED" DATE FOR THE PURPOSES OF THE REPLACEMENT HOUSING PROVISIONS OF AB

2222. HCIDLA WILL ENSURE COMPLIANCE WITH THE REPLACEMENT PROVISIONS OF AB 2222.

2. PLANNING ENTITLEMENT DENSITY BONUS PROJECT:

DENSITY BONUS PROJECTS REQUIRING DISCRETIONARY REVIEW DUE TO THE NEED FOR PLANNING/ZONING

ENTITLEMENTS FROM DCP ARE PRESENTLY ASKED TO COMPLETE AN AFFORDABLE HOUSING REFERRAL FORM, IN

ADDITION TO THE MASTER LAND USE APPLICATION. THE REFERRAL FORM SERVES AS A WORKSHEET TO

DETERMINE THE NUMBER OF REQUIRED AFFORDABLE UNITS. IT HAS BEEN UPDATED TO INCLUDE A QUESTION ON

REPLACEMENT UNITS. ONCE A COMPLETE DENSITY BONUS SUBMITTAL HAS BEEN ACCEPTED BY THE DCP

PUBLIC COUNTER, FEES HAVE BEEN FULLY PAID AND A CASE NUMBER HAS BEEN ASSIGNED, THE APPLICATION

WILL BE CONSIDERED "SUBMITTED". THE "SUBMITTAL" DATE IS ALSO REFERRED TO AS THE "CASE FILED ON"

DATE, WHICH WILL BE VERIFIED BY STAFF WHEN WRITING UP THE DETERMINATION LETTER.

[HTTP://LANDUSE.COXCATTLE.COM/2014/12/07/DENSITY-BONUS-UPDATE-AB-2222-ANOTHER-IMPEDIMENT-SOLVING-CALIFORNIAS-AFFORDABLE-HOUSING-CRISIS/](http://landuse.coxcastle.com/2014/12/07/density-bonus-update-ab-2222-another-impediment-solving-californias-affordable-housing-crisis/)

DECEMBER 7, 2014

Density Bonus Update—Is AB 2222 Another Impediment to Solving California’s Affordable Housing Crisis?

By David Waite and Andrew Fogg



In many cities throughout California, concerns about traffic have made the State Density Bonus Law (“DBL”) a four letter word. Developers who are otherwise willing to provide affordable units as a component of a market rate multifamily or mixed-use project are increasingly discouraged from doing so. And it’s not getting any easier. On September 27, 2014, Governor Brown signed AB 2222, amending the DBL in response to a growing perception that the DBL could be implemented in a manner that could result in a net loss of existing affordable housing units for new housing projects. The bill requires developers to identify and replace all of a property’s pre-existing affordable units to be eligible for a density bonus under the DBL. While that goal sounds reasonable, in practice, it may prove to be difficult to implement and will most likely not achieve the intended result of retaining and creating more affordable housing throughout California.

The DBL, enacted in 1979, is intended to encourage public agencies to offer density bonuses and other development “incentives” to housing developments that include affordable housing units. Community and political opposition to a developer’s right to obtain a density bonus under state law to offset the cost of providing affordable housing has discouraged many developers from including affordable housing in their projects. This is because the grant of a density bonus is a “ministerial” act, not a “discretionary” act. Therefore, a City’s approval of a density bonus application does not constitute a “project” under CEQA. The DBL rewards developers by promoting construction of housing for seniors and low-income families. Critics view the “right” to a density bonus as giving developers a “free pass” on CEQA compliance. Community opposition to the DBL has been fierce in many communities.

AB 2222 adds a new hurdle. It prohibits a developer from receiving a density bonus unless the proposed housing development or condominium project would, at a minimum, maintain the number and proportion of affordable housing units within the proposed development. As discussed below, AB 2222 defines affordable housing units very broadly, and includes, among others, any units subject to local rent control, even if currently rented at market rate, or, if not subject to rent control, occupied by low or very low income households currently *or during the prior five years if the units have been vacated or demolished*. AB 2222 also increases the required affordability period from 30 years to 55 years for all affordable rental units that qualified an applicant for a density bonus. The new density bonus law requires replacement rental units to be subject to a recorded affordability restriction for at least 55 years. The new density bonus law does not apply to density bonus applications submitted to, or processed by, a local government before January 1, 2015.

What does this mean? Let's consider a hypothetical: If a developer chose to tear down an existing 15-unit building that contained 10 units that qualified as "affordable," the developer would need to have at least 10 new affordable units included in the project. If the zoning permitted 20 units, the developer would need to retain 10 affordable units and would include 10 market rate units before adding the density bonus units. Assuming that the developer was entitled to 35% density bonus, that would result in 7 additional units. At the end of the day, the developer would have a 27 unit project containing 10 affordable units and 17 market rate units. If the developer can simply build a project of 20 market rate units, why invite community opposition and challenges associated with including affordable units and seeking a density bonus for fewer market rate units?

The five-year look back for units that were "occupied" by low or very low income households is also problematic. Records are going to be difficult to obtain or perhaps non-existent. Even if the rent rolls exist, a developer may have difficulty determining income levels during the preceding five years. These requirements invite evidentiary disputes as to the number of qualifying units.

Equally problematic is the definition of what is "affordable" in the context of existing housing units. It includes a "recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income" or "any other form of rent or price control through a public entity's valid exercise of its police power" or "occupied by lower or very low income households." Presumably, these restrictions will apply to all rent controlled units in Santa Monica, Los Angeles, West Hollywood, Berkeley and San Francisco. In these communities, there would be no density bonus allowed without 100% replacement of the dedicated affordable units. Applying the hypothetical 20 unit project in the City of Los Angeles, if the building is under rent control, it would yield 15 affordable units and 12 market rate units. This would seem to remove any economic incentive to seek a density bonus in rent control jurisdictions.

With the many impediments to creating affordable housing, the foregoing does not bode well for using the DBL as a tool to address California's affordable housing crisis.