



BAPDA

BAY AREA PLANNING DIRECTORS ASSOCIATION

Spring 2021 General Membership Meeting

Housing Now!

April 23, 2021



Agenda

- 1. Regional Housing Needs Allocation (RHNA) & Regional Housing Technical Assistance (RHTA) Program Updates**
- 2. SB 330: Introduction and Case Study**
- 3. State Housing and Land Use Legislation**



RHNA and Regional Housing Technical Assistance Program Updates

Bay Area Planning
Directors Association

April 23, 2021

RHNA Methodology Development Process

October 2019 to
September 2020

Housing Methodology Committee (HMC) worked collaboratively and voted to recommend a Proposed RHNA Methodology.

October 15, 2020

ABAG Executive Board approved Proposed RHNA Methodology.

October 24 -
November 27, 2020

Public comment period on Proposed RHNA Methodology, including public hearing on November 12.

January 2021

ABAG Regional Planning Committee and Executive Board voted to include “equity adjustment” as part of the Draft RHNA Methodology.

February 11, 2021

As required by law, ABAG submitted Draft RHNA Methodology to HCD for review.

 April 12, 2021

HCD confirmed Draft RHNA Methodology furthers statutory objectives.

May 2021

ABAG Regional Planning Committee and Executive Board consider approval of Final RHNA Methodology and release of Draft RHNA Allocations.

Draft Allocations by County

	2023-2031 Draft RHNA Methodology	2023-2031 Draft RHNA Methodology	2015-2023 RHNA (Cycle 5)	Bay Area Households (2020)	Bay Area Jobs (2018)
Alameda	88,997	20%	23%	21%	20%
Contra Costa	49,043	11%	11%	14%	10%
Marin	14,405	3%	1%	4%	3%
Napa	3,844	1%	1%	2%	2%
San Francisco	82,069	19%	15%	14%	19%
San Mateo	47,687	11%	9%	10%	10%
Santa Clara	129,577	29%	31%	23%	27%
Solano	10,992	2%	4%	6%	4%
Sonoma	14,562	3%	4%	7%	5%
BAY AREA	441,176	100%	100%	100%	100%

* Totals may not sum to 100% due to rounding

Key Milestones & Timeline:

RHNA Appeals Process Overview

- **Who can file an appeal?** A jurisdiction or HCD can appeal a jurisdiction's Draft RHNA Allocation.
 - A jurisdiction can appeal its own allocation and/or another jurisdiction's allocation.
 - A jurisdiction that is the subject of an appeal filed by another jurisdiction/HCD will have the opportunity to challenge the appeal at the appeal public hearing.
- **What are the major steps in the appeals process?**



Filing an Appeal:

What are the Allowable Reasons for an Appeal?

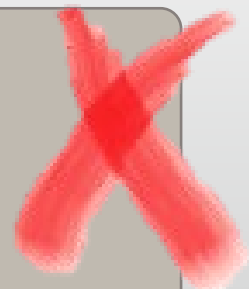


An appeal can be filed only if:

1. ABAG failed to adequately consider information submitted in the local jurisdiction survey.
2. ABAG did not determine the jurisdiction's allocation in accordance with its adopted methodology and in a manner that furthers, and does not undermine, the RHNA objectives.
3. A significant and unforeseen change in circumstances has occurred in the local jurisdiction or jurisdictions that merits revision of information submitted as part of the local jurisdiction survey.
Appeals on this basis shall only be made by the jurisdiction or jurisdictions where the change in circumstances has occurred.

By law, appeals cannot be based on:

- Any local ordinance, policy, voter-approved measure or standard limiting residential development.
- Underproduction of housing from the last RHNA cycle.
- Stable population numbers in a jurisdiction.



For More Information

- **Visit ABAG's website:** <https://abag.ca.gov/our-work/housing/rhna-regional-housing-needs-allocation>
- **Review the Draft RHNA Methodology Report:**
https://abag.ca.gov/sites/default/files/documents/2021-02/ABAG_Draft_RHNA_Methodology_Report_2023-2031.pdf
- **Contact:** RHNA@bayareametro.gov



Technical Assistance
for Local Planning
HOUSING



Regional Housing Technical Assistance Program



Program Goal

Assist Bay Area jurisdictions with adopting compliant Housing Elements and increasing housing opportunities in their communities through local, subregional, and regional resources



Housing Element Webinar Series

COVERED TOPICS:

- Housing Element 101 - Overview and New Laws
- Now That's Progress - Annual Progress Report Q&A w/HCD
- Creating Capacity - An Overview of the Sites Inventory
- Using Data Effectively in Housing Element Updates - ABAG's Housing Needs Data Packets and Census

FUTURE TOPICS:

- **April 27:** How to Talk About Housing - Data-Driven Lessons on Housing Messages that Work and Those that Backfire
- **May 11:** Incorporating Environmental Justice and Safety into your Housing Element (co-hosted by OPR)
- **May 25:** Engage How To! Introduction to Best Remote Meeting Practices and Tools
- TBA: Affirmatively Furthering Fair Housing

Recordings of all webinars will be available on [ABAG's website](#)

Regional Housing Data Tools

Housing Needs Data Packets

5 HOUSING STOCK CHARACTERISTICS

5.1 Housing Types, Year Built, Vacancy, and Permits

In recent years, most housing produced in the region and across the state consisted of single-family homes and larger multi-unit buildings. However, some households are increasingly interested in "missing middle housing" - including duplexes, triplexes, townhomes, cottage clusters and accessory dwelling units (ADUs). These housing types may open up more options across incomes and tenure, from young households seeking homeownership options to seniors looking to downsize and age-in-place.

The housing stock of Oakland in 2020 was made up of 42.4% single family detached homes, 4.0% single family attached homes, 18.7% multifamily homes with 2 to 4 units, 34.5% multifamily homes with 5 or more units, and 0.3% mobile homes (see Figure 18). In Oakland, the housing type that experienced the most growth between 2010 and 2020 was *Multifamily Housing: Five-plus Units*.

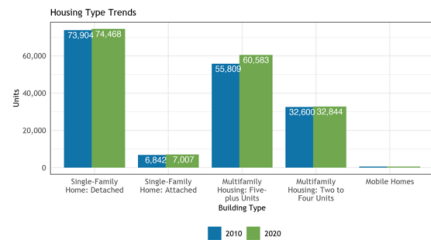


Figure 18: Housing Type Trends

Source: California Department of Finance, E-5 series

Production has not kept up with housing demand for several decades in the Bay Area, as the total number of units built and available has not yet come close to meeting the population and job growth experienced throughout the region. In Oakland, the largest proportion of the housing stock is built 1939 or earlier, with 65,105 units built during this time (see Figure 19). Since 2010, 1.8% of the current housing stock was built, which is 3,113 units.

11

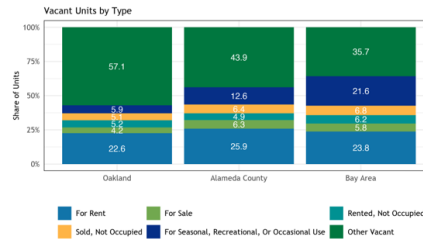


Figure 20: Vacant Units by Type

Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25004

Between 2015 and 2019, 93.8% of permits issued in Oakland were for above moderate income housing and 6.2% were for low or very low income housing (see Table 3).

Table 3: Housing Permitting

Income Group	Number of Permits
Above Moderate Income	13,135
Very Low Income	662
Low Income	213
Moderate Income	70

Source: California Department of Housing and Community Development (HCD), 5th Cycle Annual Progress Report Permit Summary (2020)

5.2 Assisted Housing Developments At-Risk of Conversion

While there is an immense need to produce new affordable housing units, ensuring that the existing affordable housing stock remains affordable is equally important. Additionally, it is typically faster and less expensive to preserve currently affordable units that are at risk of converting to market-rate housing than it is to build new affordable housing.

The data in the table below comes from the California Housing Partnership's Preservation Database, the state's most comprehensive source of information on subsidized affordable housing at risk of losing its affordable status and converting to market-rate housing. However, this database does not include all deed-restricted affordable units in the state, so there may be at-risk assisted units in a jurisdiction.

Housing Element Site Selection Tool

The screenshot displays the 'Pre-Screened Sites Map' interface. At the top, there are navigation links for HOME, EXPLORE, and FEEDBACK, along with a Logout button. The main map area shows a satellite view of the Bay Area with numerous sites marked in red and yellow. A sidebar on the left provides filtering options:

- Tools:** Layers, Info
- Clear Actions/Filters:** Button
- SITE FILTERS (1):**
 - PROPERTY USE:**
 - Is Publicly Owned
 - Is Vacant
 - In Urban Service Area
 - Current Zoning:** Dropdown menu
 - Existing Land Use:** Dropdown menu
- SITE CONSTRAINTS:**
 - RHNA 4
 - RHNA 5
 - Sea Level Rise (36)
 - Sea Level Rise (77)
 - Landslide
 - Earthquake/Seismic
 - Liquefaction
 - Riparian Area
 - Floodplain
 - Wildlife Habitat

On the right side, a legend titled 'PRE-SCREENED SITES' shows:

- Adequate Sites (1)
- Potential Sites (37,744)
- Constrained Sites (17,771)
- My List (0)

At the bottom of the legend is a 'Methodology' button. The map interface includes a search bar, map controls (zoom in/out, pan), and a 'mapbox' logo at the bottom.



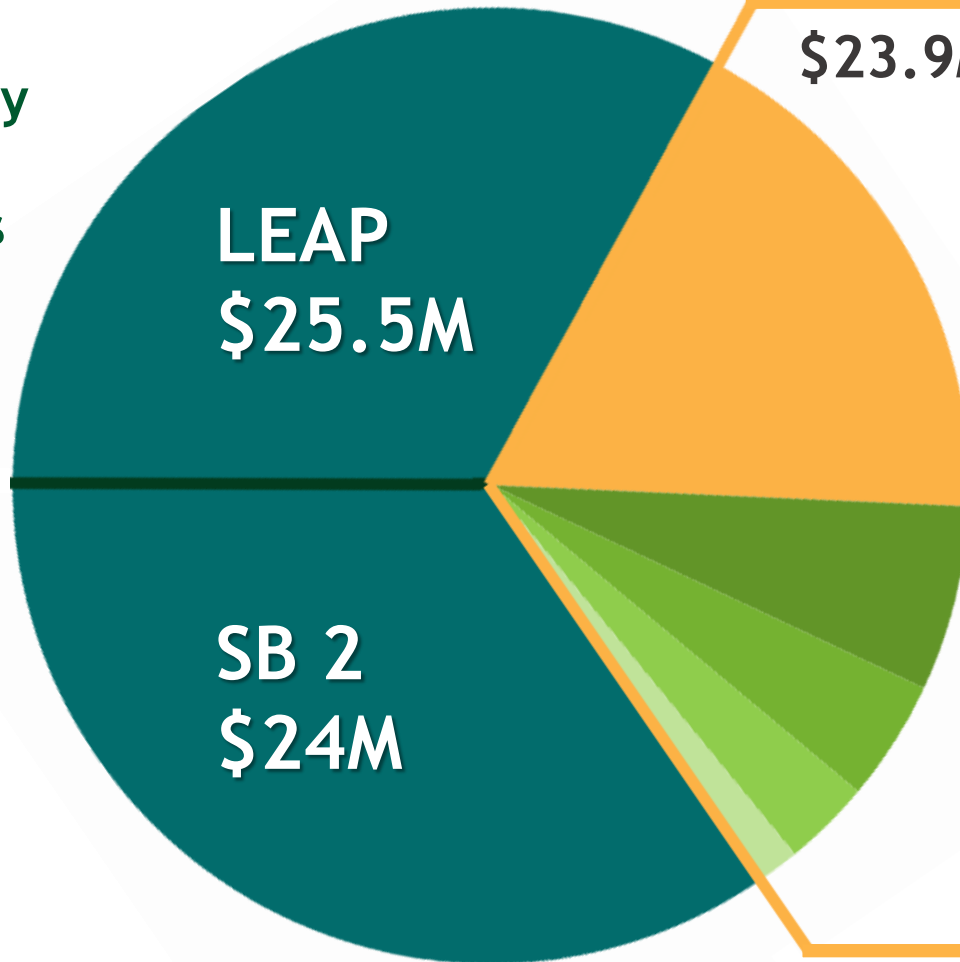
Technical Assistance
for Local Planning
HOUSING



Association of Bay Area Governments

Local REAP Grants

■ Grants from state directly to local jurisdictions



\$23.9M REAP GRANT FROM STATE TO ABAG

■ \$13M Regional TA

ABAG Allocations to Local Jurisdictions

Non-Competitive

- \$4.7M County Collaboratives
- \$3M RHNA-Based Allocations
- \$2.2M Minimum Allocations

Competitive

- \$1M Scoring-based Allocations

Regional Consulting Bench





Thank You.

For more information:

Visit the Regional Housing TA website or
contact HousingTA@bayareametro.gov

SB 330 – HOUSING CRISIS ACT OVERVIEW + CASE STUDY

APRIL 23, 2021



WHAT IS SB 330?

- ❑ Housing Crisis Act – Signed by Governor in 2019
- ❑ Declared statewide housing emergency
- ❑ Strengthens **Housing Accountability Act** and **Permit Streamlining Act**
- ❑ Establishes a **“two step” streamlined review process** for housing, mixed-use, trans/supportive housing development through **January 1, 2025**
- ❑ Applies to affected cities/counties in **urban areas** or **urban clusters** designated by US Census Bureau

RELATIONSHIP TO HOUSING ACCOUNTABILITY ACT?

- ❑ Prohibits change in GP land use designation and/or zoning where housing is an allowable use (in place as of Jan 1, 2018); exception for “no net loss” action
- ❑ Prohibits imposing a moratorium on housing unless eminent threat to public health & safety (HCD must approve)
- ❑ Prohibits enforcing subjective design standards where housing is an allowable use; review of objective standards only
- ❑ Prohibits establishing growth control measures adopted after 2005
- ❑ Prohibits housing development that requires existing residential unit demolition unless replaced 1:1 + relocation assistance

HOW DOES THE STREAMLINED REVIEW PROCESS WORK?

- ❑ Changes housing application review/vesting under Permit Streamlining Act – **“Two Step” Process**
- ❑ Establishes **Preliminary Application** (Step 1) – not mandatory
- ❑ Locks in GP policies and zoning regulations/ordinances and fees in place at time of Preliminary Application **filing**
- ❑ Preliminary Application **deemed submitted/filed** upon providing list of information provided in **GC 65941.1**
- ❑ Applicant/developer must submit “formal” development application **w/in 180 days** of Preliminary Application **filing**

PRELIMINARY APPLICATION SUBMITTAL CHECKLIST (65941.1)

EXISTING SITE CONDITIONS/USES	EXISTING HOUSING TO BE DISPLACED
SITE PLAN/ELEVATIONS/PARKING	EASEMENTS AND UTILITIES
# OF RESIDENTIAL UNITS, SIZE/SQ FT	INCLUSIONARY UNITS + DENSITY BONUS
CULTURAL RESOURCES (ARCH, HISTORIC)	NATURAL RESOURCES (WETLANDS, CREEKS)
HAZARDS - HAZARDOUS MATERIALS	HIGH FIRE SEVERITY OR EARTHQUAKE ZONE
FLOOD ZONE?	SPECIAL COASTAL ZONE REQUIREMENTS

JURISDICTION CANNOT REQUIRE MORE INFORMATION THAN ABOVE

JURISDICTION MUST MAKE CHECKLIST AVAILABLE TO PUBLIC

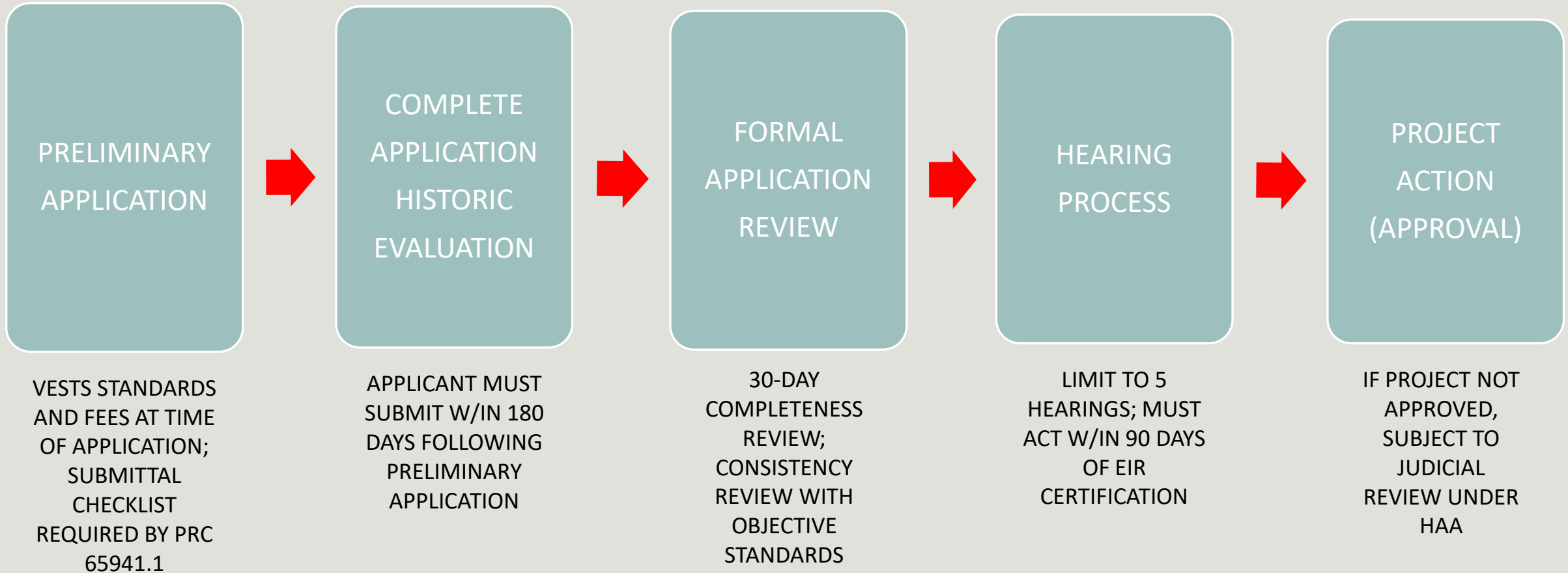
HOW DOES THE STREAMLINED REVIEW PROCESS WORK?

- ❑ **Development Application** review (Step 2)
- ❑ Agency has **30 days** to review Development Application for completeness
- ❑ If incomplete, Agency must provide an **“exhaustive list”** to complete; list must be **limited to only those items on the submittal requirement checklist**
- ❑ Resubmittal subject to another 30-day review cycle; Agency cannot ask for new items/information
- ❑ **Historic site determination** required at time Development Application deemed complete

HOW DOES THE STREAMLINED REVIEW PROCESS WORK?

- ❑ Agency must notify applicant within **30 days of completeness (60 days for projects over 150 units)** if project does not meet objective standards
- ❑ Streamlining limits project to **no more than five (5) hearings** (includes workshops, study sessions, public hearings)
- ❑ Project action/approval must occur **within 90 days of agency certification of an EIR** (60 days for low-income project seeking tax credits/public financing)

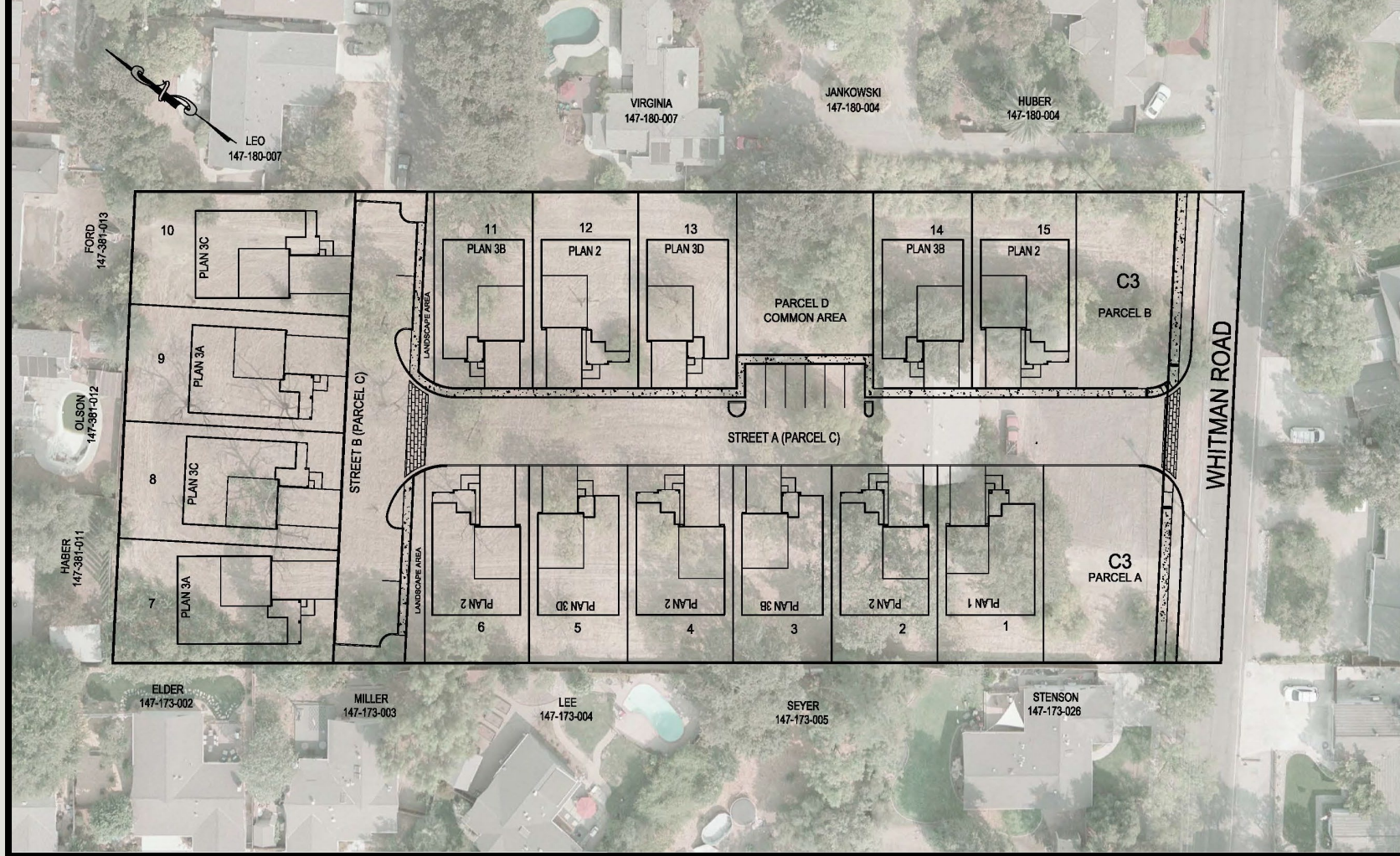
SB 330 – REVIEW PROCESS



EXCEPTIONS

- ❑ Following submittal of Preliminary Application **project revised by more than 20%** (either # of units or sq ft) = start from scratch with new Preliminary Application
- ❑ Fees frozen except for **annual increase for inflation**
- ❑ No new regulations can be imposed **unless necessary to avoid or substantially lessen an environmental impact**
- ❑ **Hearings on legislative approvals** not subject to 5 hearing limit
- ❑ Project approval **lapses** if not constructed within 2.5 years of agency approval

CASE STUDY CONCORD, CA



Whitman Road Development, Concord, CA

An SB330 Case Study

The Basics

- 2.2-acre site, 15 single-family detached proposed**
- Surrounded by single-family residential uses**
- Utilizing small-lot standards, falls within GP density range**
- Requires Design Review Board, Planning Commission, and City Council (if appealed)**
- We are anticipating an appeal**

The Basics

- ❑ Applicant filed **preliminary application** and **formal application** concurrently
- ❑ **Addressed both** in the incompleteness letter
- ❑ Incompleteness letter included some items **not on the City's published checklist**
- ❑ **Received letter** asking to retract those items not listed
 - ❑ **KEY TAKEAWAY:** Make sure checklists are **exhaustive and clear**

The More You Know...

- ❑ **What IS a five-hearing limit, exactly?**
 - ❑ **KEY TAKEAWAY: Appeals count** towards the five-hearing limit!
 - ❑ **KEY TAKEAWAY: Manage expectations** of decision-makers and community
 - ❑ **KEY TAKEAWAY: Prioritize development of clear, objective design standards**
 - ❑ **KEY TAKEAWAY: Prioritize preparation of a streamlined development review process**

Use of Objective Design Standards

- ❑ What are **objective design standards**?
- ❑ *“Objective design standard’ means a design standard that involves **no personal or subjective judgment** by a public official and is **uniformly verifiable** by reference to an external and uniform **benchmark or criterion** available and knowable by both the development applicant or proponent and the public official **before submittal of an application**.” (Emphasis added)*

Use of Objective Design Standards

- ❑ What if my jurisdiction doesn't have "objective design standards"?
 - ❑ Using existing development standards can be tricky to determine compliance with SB330
 - ❑ **Example:** Concord's small lot standards require "...variable locations of garage entries, such as front-facing attached...detached...side-facing...accessed via rear alley..."
 - ❑ Proposed project has all front-facing garages, but vary on left and right sides



PLAN 1
CALIFORNIA BUNGALOW

PLAN 2
CALIFORNIA RANCH

PLAN 3
MODERN FARMHOUSE

QUESTION: Does this comply with the objective design standard test?

Consistency, Compliance, Conformity

- ❑ ***“...project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is **substantial evidence** that would allow a **reasonable person** to conclude that the housing development project is consistent, compliant, or in conformity.” (§65905.5(c)(1))***

Pro Tips!

- ❑ Agencies cannot (among other things) enact policy, standard, condition that would:
 - ❑ Impose or enforce design standards after 1/1/2020 that are not objective
 - ❑ Limit housing permits/approvals or
 - ❑ Reduce housing capacity below that allowed on 1/1/2018 (§66300(b), *et seq.*)
- ❑ Incompleteness determination can be appealed, and must be determined **within 60 days** of written appeal...or application is **deemed complete** (§65943, *et seq.*)
 - ❑ 60-day limit includes hearings through the governing body

Case Study Next Steps

- Items still outstanding prior to being deemed complete
- No new items** may be added on subsequent review
- Once complete, and CEQA determination made, conduct hearings
 - One** Neighborhood Meeting
 - One** Design Review Board
 - One** Planning Commission
 - Allows for **two** Council meetings (if appealed)

Concord's Next Steps

- ❑ Use LEAP and REAP funds to:
 - ❑ Prepare code updates to incorporate **preliminary application** review process
 - ❑ Develop **objective design standards** and other code amendments
 - ❑ Design and deploy **streamlining process** to facilitate housing development
- ❑ Establish **reasonable and appropriate fees** for preliminary review and formal review process
- ❑ Provide continued guidance to community and applicants

Questions?



BAPDA

BAY AREA PLANNING DIRECTORS ASSOCIATION

2021 In-Session Legislative Update



April 23, 2021

Bay Area Planning Directors' Association

2021 Legislative Themes



Impacts of the Pandemic on Housing, Homeless and Tenants



Increased Density, Continued Streamlining and Development Incentives, and Adequate Sites



Wildfire Recovery and Hazard Mitigation

2021 Housing Bills

Senate Housing Package

- ❖ **SB 5 – Affordable Housing Bond Act of 2022**
 - ❖ Establishes the initial framework for a statewide housing bond that would fund the creation of new, affordable housing for homeless and low-income families
- ❖ **SB 8 / SB 9 / SB 10 - Upzoning**
 - ❖ SB 8 would extend SB 330 five more years
 - ❖ SB 9 would require ministerial approval of 2 units on all residential properties and would allow lot splits of qualifying single-family lots
 - ❖ SB 10 authorizes discretionary upzoning up to 10 units per parcel in jobs-rich and transit-rich areas with CEQA exemption
- ❖ **SB 6 – Residential in Commercial Zones**
 - ❖ Make smulti-family housing and mixed-use development subject to by-right approvals in Commercial Zones
 - ❖ SB 6 would allow housing in retail and office zones based on nearby zoning requirements

Housing (continued)

- ❖ **AB 115 / SB 778 Residential in Commercial Zones**
 - ❖ Like SB 6, would make multi-family housing and mixed-use development subject to by-right approvals in Commercial Zones
 - ❖ AB 115 would projects with at least 20% affordable housing to be allowed on commercial sites until the 6th cycle housing element rezoning is completed, with some restrictions and height/density allowances
 - ❖ SB 778 would allow ADUs in the commercial portions of mixed use buildings
- ❖ **SB 1322 – Resolving State/Local Law conflicts**
- ❖ **AB 571 / SB 290 / SB 728 – Density Bonus**
 - ❖ AB 571 would prohibit charging affordable housing fees on affordable units in density bonus projects
 - ❖ SB 290 would provide density bonus for lower income student housing
 - ❖ SB 728 would allow non-profits to purchase ownership density bonus units to manage affordability



2021 Coordinated Planning Bills

- ❖ **AB 68 (Salas) and AB 989 (Gabriel)**
 - ❖ AB 68 Implements Statewide Audit Findings
 - ❖ AB 989 proposes HCD Housing Accountability Committee to receive developer appeals

- ❖ **AB 215: Housing Element Progress Enforcement**
 - ❖ Requires HCD to evaluate Housing Element progress during year 5 of RHNA cycle
 - ❖ Requires midcycle Housing Element “consultation” if (1) behind in RHNA and (2) below regional average in RHNA production
 - ❖ Requires adoption of pro-housing policies if progress is 10% below regional average



Coordinated Planning (continued)

❖ AB 1398 / AB 1486

- ❖ AB 1398 would decrease the amount of time allowed to adopt rezoning necessary to implement the Housing Element
- ❖ AB 1486 would exempt Housing Element updates and implementing actions from CEQA

❖ AB 1147

- ❖ Requires reporting to ARB re: transportation funds to implement SCS and ARB evaluation of MPO GHG reduction efforts
- ❖ Multiple other proposals to address the SCS, Building Decarbonization, and Regional Planning related to VMT: AB 1547, SB 261, SB 475, SB 582, SB 32

2021 Inclusion and Equity Bills

❖ **ACA 1 / SCA 2**

- ❖ ACA 1 would reduce the threshold for voter approval of public financing for infrastructure, affordable housing and supportive housing
- ❖ SCA 2 would repeal Article 34, eliminating vote requirement to construct public lower income rental housing

❖ **AB 387**

- ❖ The Social Housing Act would focus public resources on housing creation
- ❖ Concept includes for sale and rental homes held by public entities or non-profits
- ❖ State “Social Housing Council” would create full report by 2024 on policy proposals to implement

❖ **AB 1360**

- ❖ Would make Project HomeKey a permanent program and prevent removal of residents until after COVID-19 state of emergency ends



2021 Infrastructure, Services, and Fees Bills

- ❖ **AB 1401**
 - ❖ Would eliminate commercial and residential parking standards within ½ mile of major transit
- ❖ **AB 602**
 - ❖ Potential major re-working of mitigation fee standards for residential units
 - ❖ Amendments would focus the bill on procedural safeguards and reporting requirements to increase transparency and accountability
- ❖ **SB 695**
 - ❖ Would impose additional restrictions on use of the Mitigation Fee Act
- ❖ **Additional Telecom-related Streamlining**
 - ❖ AB 537 (Quirk) FCC shot clock
 - ❖ SB 378, streamlining for micro trenching, (L. Gonzalez) and
 - ❖ SB 586 (Dodd) small cells 2.0



2021 CEQA Bills

- ❖ SB 7 – Leadership Project status for housing developments
 - ❖ Expands provisions of AB 900 to large housing, energy, and manufacturing projects.
 - ❖ Extends AB 900 from 2021 through 2025
- ❖ SB 44 – streamlining for environmental leadership transit projects
- ❖ SB 412 – Expands definition of emergency to include CEQA exemption for mitigating fire threats
- ❖ AB 819 – Online noticing and filing requirements

2021 Hazard Mitigation Bills

- ❖ Governor has already signed \$536 Million Wildfire Package (SB 85)
 - ❖ Focus on wildfire suppression projects
- ❖ See also, AG Office backing lawsuits in Lake County and San Diego requiring additional review of wildfire risk associated with approving housing developments
- ❖ SB 12 requires additional fire hazard planning responsibilities and specified findings before taking certain development actions in very high fire risk areas (VHFRA)s
 - ❖ Requires, by January 1, 2023, the State Fire Marshal to adopt wildfire risk reduction standards and standards for third-party inspection and certification of defensible space.
 - ❖ Requires, by January 1, 2024, the State Fire Marshal to update maps of very high fire hazard severity zones (VHFHSZs) and identify areas where new residential development poses exceptional risk to future occupants of the development.
 - ❖ Requires the Office of Planning and Research (OPR), by January 1, 2023, to identify local ordinances, policies and best practices relating to land use planning in VHFRA)s, wildfire risk reduction, and wildfire preparedness.

SB 12 (continued)

General Plan Requirements:

- ❖ Requires cities and counties to review and update the safety element of the general plans to
- ❖ include a comprehensive retrofit strategy for existing structures.
- ❖ Requires cities and counties with VHFHSZ to amend the land use element to include specified
- ❖ goals, objectives, information, policies, and implementation measures related to fire hazard
- ❖ planning. Jurisdictions must adopt corresponding zoning changes and are subject to specified
- ❖ restrictions on development actions in VHFHSZs unless they make findings that the project and
- ❖ all structures in it are protected from wildfire risk.

RHNA Changes:

- ❖ Requires RHNA plans to further the objective of promoting resilient communities and specifies
- ❖ that furthering this objective shall include reducing development pressure within VHFHSZs. This
- ❖ requirement shall apply only to the the seventh and subsequent revisions of the housing
- ❖ element.
- ❖ Requires the factors used to develop the RHNA methodology to include the amount of land in
- ❖ each jurisdiction that includes a VHFHSZ, and whether suitable alternative sites exist outside
- ❖ the jurisdiction, but within the region, to accommodate the remaining regional housing need.

Questions?

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