City of Long Beach
Working Together to Serve

Memorandum

Date: March 1, 2018

To: Patrick H. West, City Manager

From: Tom Modica, Interim Director of Development Services

For: Mayor and Members of the City Council

Subject: **Responses to the Land Use Element Roundtable Technical Questions**

Attached, please find the responses to the technical questions that have come up at the Land Use Element Roundtable meetings. These are the responses for the first five roundtables. Additionally, staff will add the responses to the last four meetings and include that information in a forthcoming memo.

If you have questions regarding this matter, please contact Linda Tatum, at (562) 570-6261.

ATTACHMENT

CC: CHARLES PARKIN, CITY ATTORNEY
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
REBECCA GARNER, ASSISTANT TO THE CITY MANAGER
LINDA TATUM, PLANNING BUREAU MANAGER
MONIQUE DE LA GARZA, CITY CLERK (REF. FILE #18-0186)

Roundtable Meetings on the Draft LUE PlaceType and Height Maps

February 28, 2018

Responses to Technical Questions for Council District 5, Council District 9, Council District 2, Council District 7, Council District 1,

Questions and Responses for Council District 5 LUE Roundtable Meeting
Saturday - February 3, 2018 – 11:00 AM El Dorado Grill Patio

Question 1: SB 35. How will SB 35 be implemented and how will it affect the LUE?

Response: SB 35 is a recently-enacted State law designed to streamline qualifying multi-family housing projects in certain instances when a City fails to issue building permits for its share of the regional housing need by income category. If a project meets the rigorous standards for streamlining, approval is ministerial and without CEQA review. Approved projects are eligible for reduced parking standards, and in certain circumstances are eligible for State mandated density bonus enhancements. To qualify for SB 35 streamlining, a proposed project would be required to meet all objective zoning standards and objective design review standards that would be applicable in the zone where the project is located. For example, if the zoning limits the height of a building to no more than four stores as per the LUE maps, a project would not be eligible for streamlining if an applicant proposed to build six (6) stories instead. This would be the case even if other locations allowed a six (6) story height limit for that same PlaceType.

A PlaceType height at one location would <u>not</u> be used to determine the height of a development project at a different location. (*See Attachment 1, memos from the City Attorney to the City Council, discussing SB35 and other housing legislation in more detail).*

Question 2: Place Type Colors. Have the colors of the Mixed Use PlaceType changed?

Response: The colors on the LUE PlaceTypes maps have not changed, and have stayed consistent throughout the LUE process so that maps at various stages can be easily compared. However, based on feedback that some map colors are indistinguishable or at times print in different hues when printed on low-quality paper or on home-printers, City staff are working to make the colors more distinct, while keeping the same colors for comparison purposes. Future maps will have these changes included.

Question 3: LUE Outreach prior to Town Hall Meetings. Can the City provide a record of the 200+ meetings or other outreach efforts that staff indicates were conducted prior to the Town Hall meetings that occurred in the Fall of 2017?

Response: Staff has conducted an extensive variety of community outreach activities on the LUE since this project was initiated in 2005. These efforts included a series of meeting and other activities that engaged a broad spectrum of residents, business groups, neighborhoods, civic,

social, and nonprofit organizations. These efforts are summarized in a list compiled by staff. (See Attachment 2).

Question 4: Consistency of PlaceType Maps with LUE Table LU-3. Why are there differences between the PlaceType maps and the Land Use Table on Page 65 of the LUE?

Response: Table LU-3 on page 65 of the LUE describes the uses allowed in each PlaceType and the maximum allowable density and height for that PlaceType. This table is designed as a summary to help explain the differences between PlaceTypes. The PlaceType and Height Map (LU-8) specifies the height of development allowed for a specific location, not Table LU-3 on page 65. As the LUE document is updated, staff will add to the disclaimer to Table LU-3 on page 65 to make this clearer.

Question 5: Opting out of Membership in SCAG. Can the City opt out of being a member of the Southern California Association of Governments and not be subject to a Regional Housing Needs Allocation (RHNA)?

Response: Nearly all cities are members of SCAG and participate in collaborative interjurisdictional planning efforts and information sharing with other cities in their SCAG sub-region. Long Beach is a member of the Gateway Council of Governments SCAG sub-region. All cities, including charter cities and general law cities, are subject to state legislative requirements to prepare and maintain updated General Plans and Housing Elements that show how the City will comply with its fair share of regional housing need (RHNA). These requirements apply whether a city is a participating member of SCAG or not. It has been stated that some cities, such as Lakewood, Signal Hill, and Huntington Beach have opted out of SCAG. The SCAG website currently lists each of these cities as members, and each of these three cities have adopted Housing Elements for the current 2013-2021 cycle.

Question 6: Lakewood Village. Is Lakewood Village 3-stories as shown on the PlaceType map or 4 stories as indicated in Table LU-3?

Response: The PlaceType map is implemented in conjunction with Table LU-3 of the LUE, however, the PlaceType and Height maps are the guiding document for determining the allowable development on a given property. The Planning Commission Recommended PlaceType and Height maps of December 2017 show the Bellflower Boulevard and Lakewood Boulevard corridors as Multiple Family Residential – Low Density at 3 stories, and Table LU-3 indicates that the Multiple-Family Residential – Low Density Place Type can be a maximum of 4 stories. As noted, the 3-stories shown on the PlaceType and Height map determine the maximum allowable development on these corridors. To clarify what may appear to be a discrepancy between LU-3 and the PlaceType and Height maps, there is a **Note** at the bottom of Table LU-3 that explains that there may be variations between Table LU-3 and the PlaceType and Height maps, and that the PlaceType map is the guiding document.

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Questions and Responses for Council District 9 LUE Roundtable Meeting
Monday, February 5, 2018 – 6:00 PM Michelle Obama Library

Question 1: Mixed Use PlaceType. In the pink, lavender or purple areas on the map (Mixed Use PlaceTypes), what can be built? Can it be an entirely commercial building? Can it be an entirely residential building? Can it be both residential and commercial? Is there a way to require some buildings to have first floor commercial and the rest residential?

> **Response:** There are four Mixed-use PlaceTypes: Low- and Moderate- density Neighborhood Serving Centers and Corridors, and Low- and Moderate-density Transit Oriented Development Corridors. The Mixed-Use PlaceTypes allow residential and commercial uses in any combination. A project can be all residential, all commercial or a mix of commercial on the ground floor with residential above. As part of the rezoning to implement the LUE PlaceTypes, on a block by block level, zoning for ground floor commercial can potentially be required if the surrounding development pattern and neighborhood context warrants ground floor commercial to maintain continuity and compatibility on a specific corridor or area.

Question 2: PlaceType Map Colors. When members of the public print the LUE PlaceType maps from the LUE website, the purple (TOD Mixed Use PlaceType) at times changes to dark pink and can make the maps confusing. Could the City consider using different colors for the final maps to make the differences in the PlaceTypes easier to differentiate?

> **Response:** Planning Staff is working to make the colors more legible and distinct for the various PlaceTypes for future maps. The next rounds of maps the City provides will attempt to make the color variations more distinct, while keeping the same colors to allow comparison to previous versions of the maps.

Question 3: Parking. How are parking issues addressed in the LUE? How many parking spaces are required for a multi-family project?

> **Response:** The LUE establishes a maximum development intensity through density, floor area ratio, and maximum building height. The City's Zoning Code (Title 21 of the Long Beach Municipal Code) prescribes the development standards that implement the LUE on a property by property level. The Zoning Code contains standards for parking, setbacks, open space, and other development criteria. The zoning code with its development regulations works in coordination with the LUE PlaceType and Height maps to regulate the development at specific locations.
>
> Parking for multi-family units in Downtown (PD-30) is 1.25 spaces/unit. Parking in the Midtown Specific Plan (SP-1) for projects in the Corridor Districts are 1.25/unit for studios and 1-bedrooms; 1.5/unit for 2 bedrooms, and 1.75/unit for 3 or more bedrooms. For projects in a TOD node the parking is 1.2/unit for studios and 1 bedrooms, 1.75/unit for 2 and 3 bedrooms. The following are parking requirements for multi-family units in all other locations of the City:
>
> - 1.25 spaces/studio
> - 1.75 spaces/1-bedroom (2.25 space in the coastal zone)
> - 2.25 spaces/2-bedroom

Some older buildings were built without adequate parking. Any new development would be required to fully park their buildings per the standards above, without relying on on-street parking. When buildings are replaced by new buildings, the parking situation will improve as the new buildings will be required to add the code-required parking.

Question 4: Density Bonuses. How do density bonuses work? Can a density bonus increase a project height above what is shown in the LUE?

Response: The California State Legislature enacted density bonus provisions into law in 1979 to encourage cities to offer concessions or incentives to housing developers who agree to build a certain percentage of low-income units. Under Government Code provisions (Section 65915), in exchange for concessions and incentives, a percentage of a residential development's units are required to be made affordable to persons of low-, very low, or moderate income and to remain restricted to affordable households for a specific time-period, usually 55 years. State law allows density bonuses from five percent (5%) up to 35% with sliding scales for the corresponding percentage of affordable units in the development. Density bonuses may be in the form of an increase in the number of units or a development standard concession, such as a reduced setback, reduced open space, or an increase in height.

Not all projects that qualify for a density bonus will necessarily require an increase to the height of the building because additional units can often be accommodated by allowing smaller unit sizes, or reducing set back or open space requirements. An increase in project height could be requested as a concession, but due to other development standards such as required open space, unit size, and parking requirements, it would be unlikely that more than one additional story in total building height would be required to provide a density bonus on a given project. As such, there is no requirement to allow a 35% increase in height under the density bonus law, as concessions vary from project to project and often do not include any increase in overall building height. In Long Beach, only 18 projects have been approved for density bonuses between 1983 and 2012. (*See Attachment 1, City Attorney's memo and Density Bonus Exhibit)*

Question 5: Urban Agriculture. Where are urban farms allowed in the LUE plan?

Response: Urban agriculture uses, as permitted by State law, are intended to provide the opportunity for locally grown and locally accessible fruits and vegetable produce. Further, urban farms provide a temporary transitional use of property until it is developed pursuant to its underlying zoning. Under the Urban Agriculture ordinance adopted by City Council in October 2017, urban farms are allowed by right in multifamily and commercial zoning districts. They are permitted in single-family and heavy-industrial zoning districts with a discretionary approval through a public hearing process.

Question 6: Grocery Stores. Are grocery stores permitted in purple (TOD Mixed Use PlaceType)?

Response: Grocery stores are a commercial use and are permitted in any red (Community Commercial) PlaceType or pink, lavender, or purple (Mixed-Use) PlaceType.

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Questions and Responses for Council District 2 LUE Roundtable Meeting
February 10, 2018 – 1:00 PM at Bixby Park

Question 1: Legal-Nonconforming single-family homes. There is a concern that if an existing single-family home in a Commercial or a Mixed-Use PlaceType in the LUE is vacant for 6 months, it will be forced to be torn down and rebuilt with a commercial use. How does the City treat legal-nonconforming single-family homes?

> **Response:** A legal-nonconforming status is created when a land use or development is legally permitted at the time of construction and the zoning code changes to either prohibit the use or change a development standard that was in effect at the time of construction. The Zoning Code (Section 21.27.020 - Continuance of nonconforming rights) specifies that any legal non-conforming single-family residence may continue and be maintained. The use and maintenance of a legal nonconforming single-family residence is permitted because of vested rights, so long as the use is operated and maintained in such a manner as not to be a nuisance, a blighting influence or a direct and substantial detriment to the rights of adjoining, abutting or adjacent uses. Under no circumstance would an existing legal nonconforming residence be required to convert to the use of the underlying PlaceType.

Question 2: Single-Family Use in a Multifamily PlaceType. Is a single-family home allowed to locate in Orange (Multiple Family Residential Moderate Density?)

> **Response:** The Multi-family PlaceType allows duplexes and apartments and is guided by the underlying zoning of the property, and most residential zones, including multiple family zones allow single family. Also, any existing single-family residences within a Multiple Family PlaceType would be permitted to remain as a permitted use.

Question 3: PlaceTypes for designated Historic Districts. Are any of the homes in the City's historic districts included in a PlaceType other than Founding and Contemporary? Do any PlaceTypes cross into Bluff Park Historic District?

> **Response**: A significant majority of the historic districts in the City are designated as the Founding and Contemporary Neighborhood PlaceType. However, there are a few instances where a historic district is designated for other PlaceTypes. This most commonly occurs when the boundaries of a historic neighborhood are along a major corridor or in an area that has an established development pattern of uses other than single-family residences. In Bluff Park the historic district boundary jogs to include properties north of 2nd Street, which has a Mixed-Use PlaceType designation; and it includes properties with a Low-Density PlaceType east of Redondo Avenue where there are existing apartment buildings. These designations protect the integrity of existing development by ensuring that they do not become nonconforming. Nonconforming properties routinely suffer from disinvestment and lack of maintenance and can become a blight to the neighborhood in which they are located.

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Questions and Responses for Council District 7 LUE Roundtable Meeting
Saturday, February 17, 2018 - Admiral Kidd Community Center

Question 1: Parking. What are the parking requirements for neighborhood residential projects?

Response: Parking for multi-family units in Downtown (PD-30) is 1.25 spaces/unit. Parking in the Midtown Specific Plan (SP-1) for projects in the Corridor Districts are 1.25/unit for studios and 1-bedrooms; 1.5/unit for 2 bedrooms, and 1.75/unit for 3 or more bedrooms. For projects in a TOD node the parking is 1.2/unit for studios and 1 bedrooms, 1.75/unit for 2 and 3 bedrooms. The following are parking requirements for multi-family units in all other locations of the City:

- 1.25 spaces/studio
- 1.75 spaces/1-bedroom (2.25 space in the coastal zone)
- 2.25 spaces/2-bedroom

Some older buildings were built without adequate parking. Any new development would be required to fully park their buildings per the standards above, without relying on on-street parking. When buildings are replaced by new buildings, the parking situation will improve as the new buildings will be required to add the code-required parking.

Question 2: **Horse Property.** Are horse properties protected in Founding and Contemporary Neighborhoods? Does the LUE ensure that horse properties may continue?

Response: Horse property is recognized and regulated through the Zoning Code, which contains a Horse-Property Overlay District that permits horse-keeping and equestrian uses within specifically designated areas of the City where there has been a history of equestrian use. The LUE contains a policy to protect and maintain existing horse property areas of the City. Horse Property Overlay Zones will continue to be allowed for ongoing equestrian uses.

Question 3: Designation of Future Park Space. Why do future park sites show as Founding and Contemporary Neighborhoods and not as Park Space as in the Oil Operators Site?

Response: Private properties designated as a use other than Open Space or Parks are valued at their current General Plan designation and zoning. For properties that the City does not own, it is considered a taking of their property or property value to reduce the future development potential without providing compensation to the property owner. Therefore, the map shows the privately-owned Oil Operators site as Founding and Contemporary Neighborhood, rather than Open Space, even though there has been significant community interest in purchasing the site to be converted to future open space.

Question 4: Parking. Does the Mixed Use PlaceType (pink, purple, lavender) allow parking lots?

Response: Parking lots are a commercial land use and are permitted in most commercial zones and would be permitted by right in Mixed Use PlaceTypes subject to specific zoning regulations such as landscaped setbacks, screening walls, etc.

Question 5: Circles around TOD Areas/Transit Stations. Why were the circles around the TOD zones removed from the PlaceType maps? Does their removal change the land uses in these areas in any way?

> **Response:** The circles on previous versions of the map were intended to show the commonly accepted distance that pedestrians are willing to walk to access services, a job, or transit. The circles were removed to make the maps more simple and readable, and their removal does not affect the PlaceType designation of any property.

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Questions and Responses for Council District 1 LUE Roundtable Meeting
Thursday, February 22, 2018 – Studio 111 at 245 E. 3rd Street

Question 1: Peace Park. Why isn't Peace Park listed on the map?

> **Response:** The omission of Peace Park on the map was an oversight that has been corrected and will be reflected in the updated PlaceType and Height maps that will be posted to the LUE website the week following City Council action on the LUE on March 6, 2018.

Question 2: Is the area surrounding Roosevelt School from 16th street to the historic district, and from Linden to the Midtown Plan boundary 10 story height limit or 5 story height limit?

Response: The PlaceType surrounding Roosevelt School includes two Mixed Use PlaceTypes that are divided along Linden Avenue: TOD Moderate Density west side of Linden Avenue, which permits up to 10 stories, and TOD Low Density east of Linden Avenue which permits up to 5 stories. When the map was revised to correct the Founding and Contemporary PlaceType for the Linden Avenue historic district, the heights were corrected to show a 5-story height for the TOD Moderate Density PlaceType at this location. The TOD Low-Density PlaceType remained the same at 5-stories.

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Attachments:

1 - Memo to City Attorney to the City Council Regarding SB35 and Housing Legislation
2 - Summary of Community Outreach Tools and Activities

City of Long Beach
Working Together to Serve

Office of the City Attorney

Attachment 1

DATE: February 22, 2018

TO: Honorable Mayor and City Councilmembers

FROM: Michael J. Mais, Assistant City Attorney

SUBJECT: March 6, 2018 Agenda Item related to the Land Use Element (LUE) of the City's General Plan

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As the date approaches (Council Meeting March 6th) for a discussion of the City's Land Use Element (LUE), we thought it might be helpful to provide Council with some background material related to the LUE and the new State housing laws that are effective in 2018. There has been much discussion of some of the newly enacted laws in the various LUE community forums and "roundtables", as well as at the Planning Commission meeting on December 11, 2017.

Attached for your review are the following documents:

- League of California Cities: 2018 Guide to New Housing Law in California
- City Manager Memorandum: 2016 Density Bonus and Accessory Dwelling Units Legislation and Implications for Local Governments
- City Attorney Memorandum: Senate Bill 35 (Streamlined Approval Process for Certain Types of Housing Developments)

The League publication provides a good overview of twelve (12) of the most notable Housing Bills (including SB 35) passed in 2017, divided into the categories of: Funding Measures, Streamlining Measures, Accountability Measures, and Other Measures of Importance. The Publication also describes why the Legislature has been focused on housing supply and affordability issues, and how the new housing laws effectuate funding, streamlining of local project approvals, and more stringent local accountability measures.

The City Attorney Memorandum (originally provided to the Council on November 27, 2017) discusses SB 35 in depth. SB 35 is designed to streamline qualifying multifamily housing projects in certain instances where a City has failed to issue building permits for its share of the regional housing need by income category. If a project meets the rigorous standards for streamlining (as discussed in the attached City Attorney memo), approval is ministerial without CEQA review. Approved projects are eligible for reduced parking standards, and in certain circumstances are eligible for State mandated density bonus enhancements.

It is important to note that to qualify for SB 35 streamlining, a proposed project would be required (subject to the discussion of Density Bonus below) to meet all objective zoning standards and objective design review standards that would be applicable in the particular zone where the project is to be located. For example, if the zoning regulations limit the height of a building to no more than four (4) stories as per the LUE maps, a project would not be eligible for streamlining if an applicant proposed to build six (6) stories instead. This would be true even if another area of the City allowed for a six (6) story height limit.

On April 4, 2017, the City Manager provided the Council with a detailed memorandum regarding the application of State Density Bonus and Accessory Dwelling Unit regulations, and their effect on current City housing regulations. This memorandum is being provided again in the context of the LUE discussion because SB 35 makes clear that qualifying affordable housing projects under SB 35 may also be eligible for density bonus enhancements.

Although application of State density bonus regulations can be complicated, its aim is fairly simple: When a developer agrees to construct a certain percentage of housing units that are affordable for low, or very low income households, or to construct senior housing, a city must grant the developer one or more zoning/building concessions or incentives and a density bonus which can allow the developer to increase the density of the development by a certain percentage above the maximum allowable limit under the City's zoning regulations. Incentives can include such things as reduced parking requirements, reduced setback and minimum square footage requirements, or in some cases an increase in the height of a project. Not all projects that qualify for a density bonus will necessarily require an increase to the height of the building because additional units can often be accommodated by allowing smaller unit sizes, or reducing set back or open space requirements.

As the City Manager's memorandum points out, the State's density bonus laws have been in effect since 1979. Since 1983, only eighteen (18) development projects in the City have been granted a density bonus accounting for a total of 204 density bonus units, or about six (6) units per year on average. Since 2005, only five (5) projects have been granted a density bonus for a total of 49 density bonus units, or about 3.5 units per year on average.

If you should have additional questions about any of the new 2017-2018 housing legislation (including SB 35) or the State laws regarding density bonus requirements, please feel free to contact us.

MJM:kjm
Attachments
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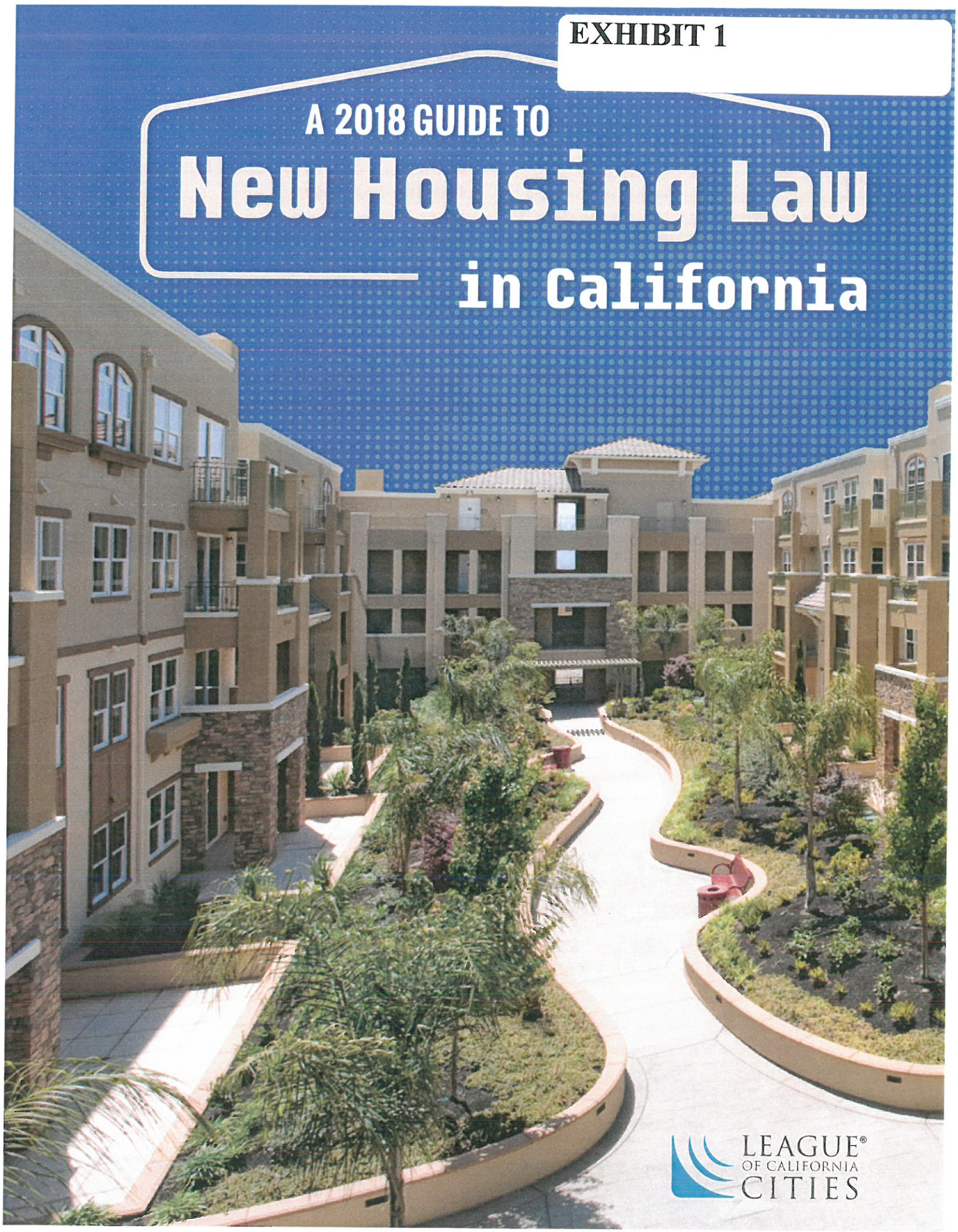
cc: Patrick H. West, City Manager
Tom Modica, Assistant City Manager/ Interim Director of Development Services
Diana Tang, Manager of Government Affairs

EXHIBIT 1

A 2018 GUIDE TO

New Housing Law in California



LEAGUE® OF CALIFORNIA CITIES

INTRODUCTION

Housing affordability is an urgent issue in California, where a majority of renters (over 3 million households) pay more than 30 percent of their income toward rent and nearly one-third (over 1.5 million households) spend more than 50 percent of their income on rent. In addition, California's homeownership rates are at the lowest point since the 1940s. This has led many experts in the field to declare the current state of housing supply and affordability a crisis.

In his January 2017 budget proposal, Governor Brown set the tone and parameters for substantive action to address housing supply and affordability issues. He indicated that new and increased funding for housing must be instituted along with regulatory reform that streamlines local project approval processes and imposes more stringent measures of local accountability. These parameters guided legislative action throughout 2017, resulting in a package of bills signed into law.

Gov. Brown and state legislators made significant changes to local land-use processes and approved new sources of revenue for housing construction. Throughout the 2017 legislative session, the League advocated for proposals that preserved local authority while advancing much-needed housing development approvals.

This reference guide covers recent actions taken by the state Legislature to address the housing crisis and provides in-depth analysis and guidance on changes made to state and local land-use law that will affect city processes and functions related to housing development.

PART I. THE CALIFORNIA HOUSING CRISIS

Principal Causes of the Affordable Housing Shortage

Local governments are just one piece of the complex scenario that comprises the housing development process. Cities don't build homes — the private sector does. California's local governments must zone enough land in their General Plans to meet the state's projected housing need; however, cities don't control local market realities or the availability of state and federal funding needed to support the development of affordable housing. This is true not just in California but nationwide.

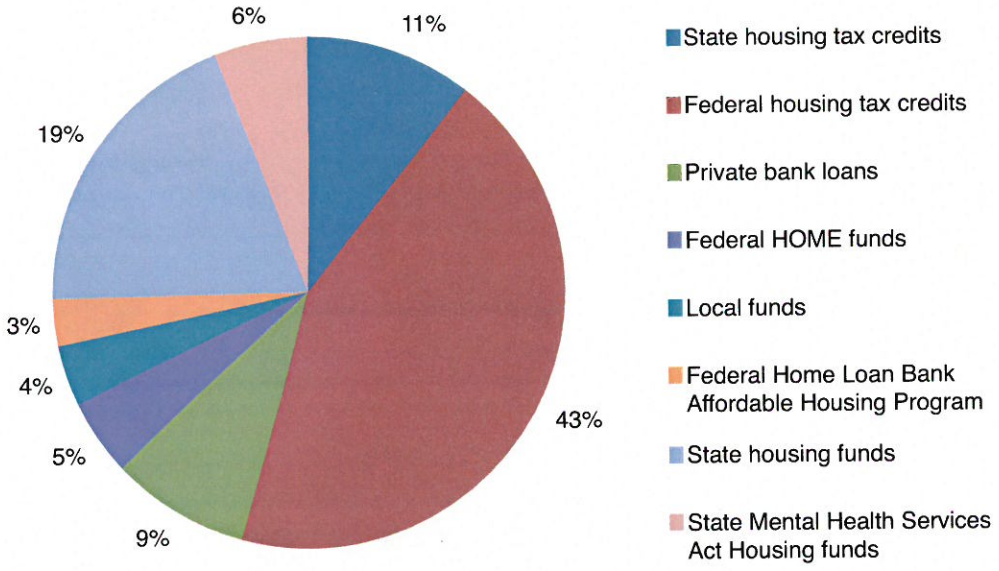
Significant barriers and disincentives constrain the production of affordable housing. These include:

- Lack of funding and subsidies needed to support housing that low- and moderate-income families can afford;
- Local and national economic and job market conditions; and
- Challenges for developers.

Lack of Funding and Subsidies for Affordable Housing

In addition to private sector financing, funding and subsidies to support the development of affordable housing come from two primary sources: federal and state government housing programs.

Sample Funding Mixes for Affordable Multifamily Developments



Source: California Department of Housing and Community Development, California's Housing Future: Challenges and Opportunities

It's extremely rare for a single affordable housing program to provide enough funding to finance an entire development, due to the costs of development and funding constraints and criteria that encourage developers to leverage other funds. The developer will typically apply for funding from multiple programs and private sector lenders that have overlapping policy goals and requirements. Private-sector lenders may also have additional criteria. The process of applying for and securing funding from multiple sources can add significantly to the lead time needed to start construction.

One multifamily development can easily need five to 10 funding sources to finance its construction. Developers generally layer financing from state and federal tax credits, state housing programs, local land donation and other local grants, federal housing programs and private loans from financial institutions. The chart "Sample Funding Mixes for Affordable Multifamily Developments" (below, left) offers an example of funding mixes for affordable multifamily developments.

Federal funding for affordable housing comprises a significant portion of California's resources to support affordable housing. However, due to pressures to cut federal spending and reduce the deficit, federal funding for housing has declined in recent years despite the increase in the number of severely cost-burdened, low-income renter households (which rose from 1.2 million in 2007 to 1.7 million in 2014). Between 2003 and 2015, Community Development Block Grant (CDBG) and HOME funds allocated to California by the U.S. Department of Housing and Urban Development (HUD) to produce affordable housing units have declined by 51 percent and 66 percent respectively (see "HUD Program Allocations to California 2003–2015" below).

Furthermore, few sources of affordable housing funding are stable or growing from year to year despite an increasing population and demand for housing. This funding uncertainty deters both efforts to address housing challenges in a sustained manner and developers' ability to build affordable housing.

The elimination of redevelopment agencies in California and the subsequent loss of over $5 billion in funding since 2011 compounded the state's affordable housing challenges. The state has never had a significant permanent source of affordable housing funding, and proceeds from the 2006 housing bond that helped create and preserve affordable apartments, urban infill infrastructure and single-family homes have been expended.

Local and National Economic and Job Market Conditions

Numerous factors contribute to local and national market conditions that affect the availability of affordable housing. The economic recovery from the Great Recession, when many middle-income families lost their homes to foreclosures, has occurred at different rates in communities throughout California. Areas with high-tech industry and some coastal areas recovered more rapidly than other regions.

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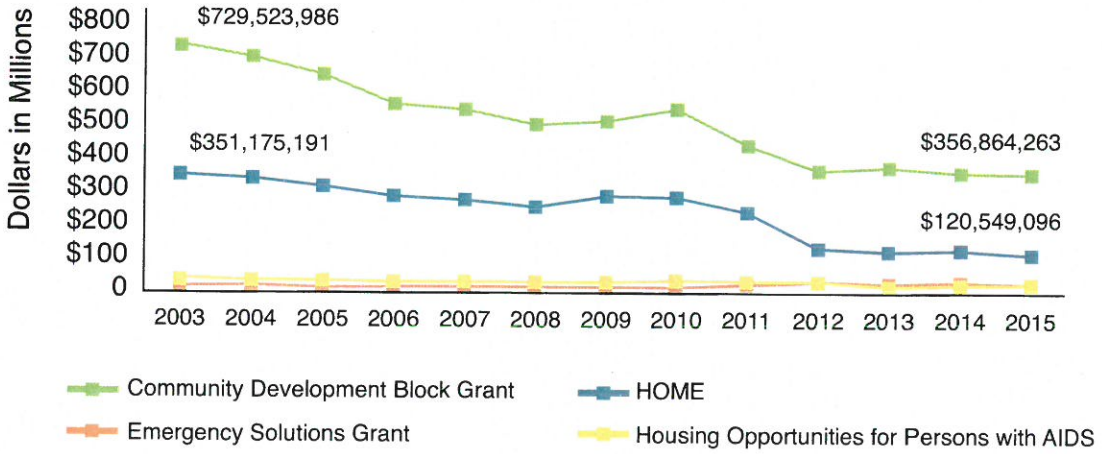
HUD Program Allocations to California 2003–2015
(Adjusted for Inflation)



Source: HUD Formula Program Allocations by State: 2003–2015 and *California Department of Housing and Community Development,* California's Housing Future: Challenges and Opportunities

Overall, the recovery has been uneven. Jobs in manufacturing and blue-collar industries have not fully rebounded, and jobs in the expanding service sector pay lower wages. Many households are still struggling to recover from the recession and home foreclosure crisis, and many recent college graduates are carrying significant debt — reducing their ability to purchase a home or pay rent.

Mortgage underwriting standards became more stringent in the aftermath of the foreclosure crisis, which can make it more difficult for potential homebuyers to qualify for the needed financing.

Some of the state's major homebuilders went out of business during the recession, leaving fewer companies to meet the demand for housing. Production of housing fell dramatically during the recession, which contributed significantly to a shortage of homes across the affordability spectrum. As the chart "Annual Production of Housing Units 2000–2015" (below) shows, housing "starts" statewide are at about half of pre-recession levels and fall far short of the state's projected need for 180,000 new homes per year.

Housing values also reflect the uneven recovery happening throughout the state. *The Wall Street Journal* recently compared home prices today to those of 2004. In San Jose, which is part of Silicon Valley where tech jobs pay top wages, prices are 54 percent higher than 2004 levels, but this is not so in areas hindered by a slower recovery from the recession. In Central Valley cities such as Stockton and Merced, housing prices are 21 and 16 percent lower respectively.

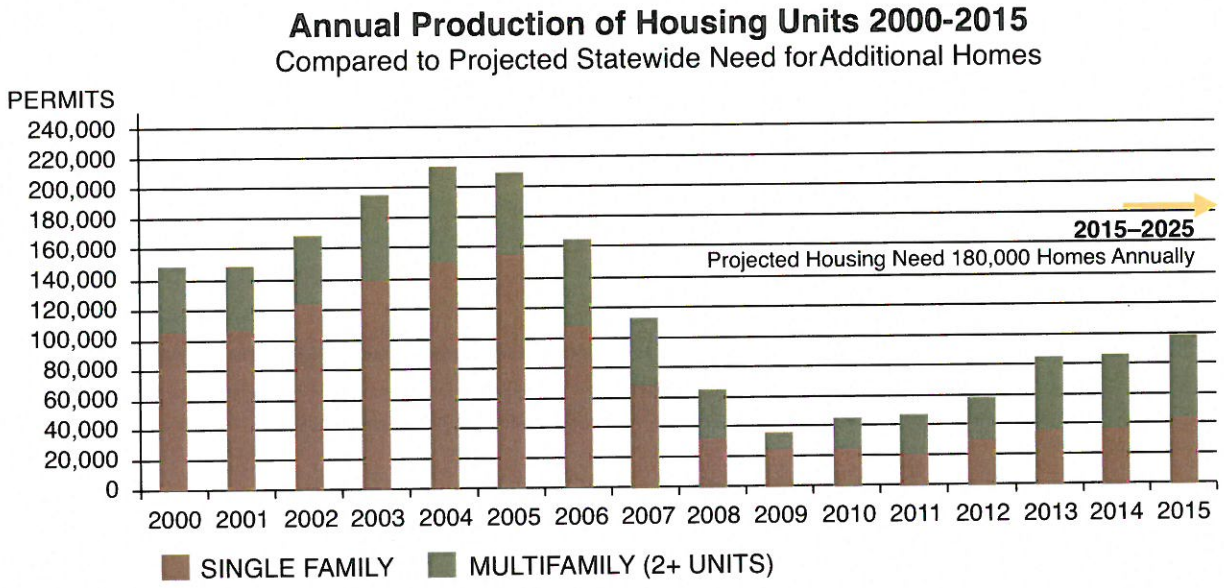
Challenges for Developers

In addition to funding challenges to develop affordable housing, other challenges further exacerbate the obstacles to development, including:

- Identifying an adequate supply of water;
- Complying with state regulations and energy standards, greenhouse gas reduction requirements and other environmental conditions;
- Competing with other developers to build high-end, more expensive housing;
- Infrastructure deficits;
- Market conditions, such as those described earlier; and
- The cost of land and construction.

Other Factors

In addition — but to a far lesser degree — factors at the local level can also impact the development of affordable housing. In some cities, new development requires voter approval. Community concerns about growth, density and preserving the character of an area may affect local development. Public hearings and other processing requirements add time to the approval timeline. Project opponents can use the environmental permitting process and litigation to limit or stop a project. However, the process of complying with the California Environmental Quality Act (CEQA) also serves to protect communities by ensuring that important environmental issues are identified and addressed.



Source: California Department of Housing and Community Development, California's Housing Future: Challenges and Opportunities

PART II. LEGISLATIVE RESPONSE: UNDERSTANDING THE CHANGES TO HOUSING AND LAND-USE LAWS

In an attempt to address some of the barriers to housing construction at the state and local level, lawmakers introduced more than 130 bills during the 2017 legislative session; many focused on constraining local land-use authority or eliminating local discretion. After months of negotiations and public hearings, 15 bills made it into the "housing package" and were signed by Gov. Brown. These bills fall into three main categories: funding, streamlining and local accountability. This section describes the most notable changes made to the state housing laws and identifies items or actions a city may want to consider in moving forward.

Funding Measures

The Legislature passed and Gov. Brown signed into law two key funding measures. The first, SB 2 (Atkins), imposes a new real estate recording fee to fund important affordable housing-related activities on a permanent, ongoing basis, effective Sept. 29, 2017. The second, SB 3 (Beall), places a $4 billion general obligation bond to fund housing on the November 2018 ballot and requires voter approval; if approved, funds likely will not be available until 2019.

SB 2 (Atkins, Chapter 364, Statutes of 2017) Building Homes and Jobs Act is projected to generate hundreds of millions of dollars annually for affordable housing, supportive housing, emergency shelters, transitional housing and other housing needs via a $75 to $225 recording fee on specified real estate documents.

In 2018, 50 percent of the funds collected are earmarked for local governments to update or create General Plans, Community Plans, Specific Plans, sustainable communities strategies and local coastal programs. Funds may also be used to conduct new environmental analyses that improve or expedite local permitting processes. The remaining 50 percent of the funds are allocated to the California Department of Housing and Community Development (HCD) to assist individuals experiencing or in danger of experiencing homelessness.

Beginning in 2019 and for subsequent years, 70 percent of the proceeds are allocated to local governments through the federal CDBG formula, so that the funds may be used to address housing needs at the local level. HCD will allocate the remaining 30 percent as follows: 5 percent for state incentive programs; 10 percent for farmworker housing; and 15 percent for the California Housing Finance Agency to create mixed-income multifamily residential housing for lower- to moderate-income households.

In consultation with stakeholders, HCD will adopt guidelines to implement SB 2 and determine methodologies to distribute funding allocations.

SB 3 (Beall, Chapter 365, Statutes of 2017) Veterans and Affordable Housing Bond Act of 2018 places a $4 billion general obligation bond on the November 2018 ballot to fund affordable housing programs and the veterans homeownership program (CalVet). If approved by voters, SB 3 would fund the following existing programs:

- Multifamily Housing Program — $1.5 billion, administered by HCD, to assist the new construction, rehabilitation and preservation of permanent and transitional rental housing for lower-income households through loans to local public entities and nonprofit and for-profit developers;
- Transit-Oriented Development Implementation Program — $150 million, administered by HCD, to provide low-interest loans for higher-density rental housing developments close to transit stations that include affordable units and as mortgage assistance for homeownership. Grants are also available to cities, counties and transit agencies for infrastructure improvements necessary for the development;
- Infill Incentive Grant Program — $300 million, administered by HCD, to promote infill housing developments by providing financial assistance for infill infrastructure that serves new construction and rehabilitates existing infrastructure to support greater housing density;
- Joe Serna, Jr. Farmworker Housing Grant Fund — $300 million, administered by HCD, to help finance the new construction, rehabilitation and acquisition of owner-occupied and rental housing units for agricultural workers;
- Local Housing Trust Fund Matching Grant Program — $300 million, administered by HCD, to help finance affordable housing by providing matching grants, dollar for dollar, to local housing trusts;
- CalHome Program — $300 million, administered by HCD, to help low- and very low- income households become or remain homeowners by providing grants to local public agencies and nonprofit developers to assist individual first-time homebuyers. It also provides direct loan forgiveness for development projects that include multiple ownership units and provides loans for property acquisition for mutual housing and cooperative developments;
- Self-Help Housing Fund — $150 million, administered by HCD. This program assists low- and moderate-income families with grants to build their homes with their own labor; and
- CalVet Home Loan Program — $1 billion, administered by the California Department of Veterans Affairs, provides loans to eligible veterans at below-market interest rates with few or no down payment requirements.

continued

Streamlining Measures

Gov. Brown made it very clear in the FY 2017–18 annual budget that he would not sign any housing funding bills without also expediting and streamlining the local housing permitting process. Lawmakers were eager to introduce measures to meet his demand. SB 35 (Wiener), SB 540 (Roth) and AB 73 (Chiu) take three different approaches to streamlining the housing approval process.

SB 35 (Wiener, Chapter 366, Statutes of 2017) streamlines multifamily housing project approvals, at the request of a developer, in a city that fails to issue building permits for its share of the regional housing need by income category. In a SB 35 city, approval of a qualifying housing development on qualifying site is a ministerial act, without CEQA review or public hearings.

Which Cities Must Streamline Housing Approvals Under SB 35?

Cities that meet the following criteria must approve qualifying multifamily housing projects that are consistent with objective planning and design review standards:

- The city fails to submit an annual housing element report for two consecutive years prior to the date when a development application is submitted; or
- HCD determines that the city issued fewer building permits than the locality's share of the Regional Housing Needs Allocation (RHNA) in each of the four income categories for that reporting period (the first four years or last four years of the eight-year housing element cycle).

Once eligibility has been determined, the development must be located on a site that:

- Is within a city that includes some portion of either an urbanized area (population 50,000 or more) or urban cluster (population at least 2,500 and less than 50,000);
- Has at least 75 percent of the perimeter adjoining parcels that are developed with urban uses; and
- Is zoned for residential use or residential mixed-use development or has a General Plan designation that allows residential use or a mix of residential and nonresidential uses, with at least two-thirds of the square footage of the development designated for residential use.

As set forth in the measure, "objective standards" involve "no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official."

After determining that the locality is subject to streamlining, development sites are excluded if they are located in any of the following areas:

- Coastal zone;
- Prime farmland or farmland of statewide importance;
- Wetlands;
- Very high or high fire hazard severity zone;
- Delineated earthquake fault zone, unless the development complies with applicable seismic protection building code standards;
- Hazardous waste site, unless the state Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses;
- Floodplain or floodway, unless the development has been issued a floodplain development permit or received a no-rise certification; and
- Lands under conservation easement.

In addition, development sites are excluded if they would demolish:

- A historic structure;
- Any housing occupied by tenants in the past 10 years; or
- Housing that is subject to rent or price control.

To be eligible for streamlining, the housing development must:

- Be on a qualifying site;
- Abide by certain inclusionary requirements (10 percent must be affordable to households earning 80 percent or less of area median income or 50 percent must be affordable to households earning 80 percent or less of area median income, depending upon the city's past approval of above-moderate income and lower-income housing, respectively); and
- Pay prevailing wages and use a "skilled and trained workforce."

Ministerial Approval

If a city determines that development is in conflict with "objective planning standards," then it must provide written documentation within 60 days of submittal if the development contains 150 or fewer housing units and within 90 days of submittal if the development contains more than 150 housing units.

Approvals must be completed within 90 to 180 days (depending on the number of units in housing development), must be ministerial and not subject to CEQA.

No parking requirements can be imposed on an SB 35 housing development project if it is located:

- Within a half-mile of public transit;
- Within an architecturally and historically significant historic district;
- In an area where on-street parking permits are required but not offered to the occupants of the development; or
- Where there is a car-share vehicle located within one block of the development.

One parking space per unit can be required of all other SB 35 projects.

How Long Does the Approval Last?

The approval does not expire if the project includes public investment in housing affordability beyond tax credits where 50 percent of units are affordable to households earning less than 80 percent of area median income (AMI).

If the project does not include 50 percent of units affordable to households earning less than 80 percent of AMI, approval automatically expires in three years except for a one-year extension if significant progress has been made in preparing the development for construction (such as filing a building permit application).

All approvals remain valid for three years and as long as vertical construction has begun and is in progress.

Opportunities and Considerations

Even though SB 35 makes significant changes to existing law, it is important to consider the following:

- All proposed projects seeking streamlining must be consistent with a jurisdiction's objective zoning standards and objective design review standards. If these standards are outdated or in need of revisions, there is opportunity to do so;
- If a jurisdiction does not have "objective zoning standards and objective design review standards," it may want to create them given that discretionary review is prohibited; and
- Funding assistance will be available in mid- to late 2019 under SB 2 (Atkins, Chapter 364, Statutes of 2017) for updating planning documents, including General Plans, Community Plans, Specific Plans, sustainable communities strategies and local coastal programs. HCD is currently establishing funding guidelines.

SB 540 (Roth, Chapter 369, Statutes of 2017) streamlines the housing approval process by allowing jurisdictions to establish Workforce Housing Opportunity Zones (WHOZs), which focus on workforce and affordable housing in areas close to jobs and transit and conform to California's greenhouse gas reduction laws. SB 540's objective is to set the stage for approval of housing developments by conducting all of the necessary planning, environmental review and public input on the front end through the adoption of a detailed Specific Plan. SB 540 provides the development community with certainty that for a five-year period, development consistent with the plan will be approved without further CEQA review or discretionary decision-making.

How Does the Streamlining Process Work?

Jurisdictions that opt in outline an area of contiguous or noncontiguous parcels that were identified in the locality's housing element site inventory. All development that occurs within the WHOZ must be consistent with the Specific Plan for the zone and the adopted sustainable communities strategy (SCS) or an alternative planning strategy (APS). See "About the Sustainable Communities Strategy and Alternative Planning Strategy" below for more information.

continued

About the Sustainable Communities Strategy and Alternative Planning Strategy

Under the Sustainable Communities Act, the California Air Resources Board (ARB) sets regional targets for greenhouse gas emissions reductions from passenger vehicle use. In 2010, ARB established these targets for 2020 and 2035 for each region covered by one of the state's metropolitan planning organizations (MPOs).

Each MPO must prepare a sustainable communities strategy (SCS) as an integral part of its regional transportation plan (RTP). The SCS contains land use, housing and transportation strategies that, if implemented, would allow the region to meet its greenhouse gas emission reduction targets. If the combination of measures in the SCS would not meet the regional targets, the MPO must prepare a separate alternative planning strategy (APS) to meet the targets.

The process for establishing a WHOZ is:

- Prepare and adopt a detailed Specific Plan and environmental impact report (EIR);
- Identify in the Specific Plan uniformly applied mitigation measures for traffic, water quality, natural resource protection, etc.;
- Identify in the Specific Plan uniformly applied development policies such as parking ordinances, grading ordinances, habitat protection, public access and reduction of greenhouse gas emissions;
- Clearly identify design review standards in the Specific Plan; and
- Identify a source of funding for infrastructure and services.

Not more than 50 percent of a jurisdiction's RHNA may be included in a WHOZ that accommodates 100 to 1,500 units.

The Specific Plan and EIR are valid for five years. After five years, the jurisdiction must review the plan and EIR, including conducting the CEQA analysis required in Public Resources Code section 21166, in order to extend the WHOZ for five additional years.

For a development project to receive streamlining within the WHOZ, the project must:

- Be consistent with the SCS;
- Comply with the development standards in the Specific Plan for the WHOZ;
- Comply with the mitigation measures in the Specific Plan for the WHOZ:
- Be consistent with the zonewide affordability requirements — at least 30 percent of the units affordable to moderate or middle-income households, 15 percent of the units affordable to lower-income households and 5 percent of the units affordable for very low-income households. No more than 50 percent of the units may be available to above-moderate-income households;
- Within developments affordable to households of above-moderate income, include 10 percent of units for lower-income households unless local inclusionary ordinance requires a higher percentage; and
- Pay prevailing wages.

If a developer proposes a project that complies with all of the required elements, a jurisdiction must approve the project without further discretionary or CEQA review unless it identifies a physical condition that would have a specific adverse impact on public health or safety.

AB 73 (Chiu, Chapter 371, Statutes of 2017) streamlines the housing approval process by allowing jurisdictions to create a housing sustainability district to complete upfront zoning and environmental review in order to receive incentive payments for development projects that are consistent with the ordinance. AB 73 is similar to SB 540 in concept; however, there are several key differences; for example, in AB 73:

- The housing sustainability district is a type of housing overlay zone, which allows for the ministerial approval of housing that includes 20 percent of units affordable to very low-, low- and moderate-income households;
- The ordinance establishing the housing sustainability district requires HCD approval and must remain in effect for 10 years;
- A Zoning Incentive Payment (unfunded) is available if HCD determines that approval of housing is consistent with the ordinance; and
- Developers must pay prevailing wages and ensure the use of a skilled and trained workforce.

Accountability Measures

The third aspect of the Legislature and the governor's housing package pertains to bills that seek to hold jurisdictions accountable for the lack of housing construction in their communities. While this view fails to acknowledge the many factors that affect housing construction and are beyond the

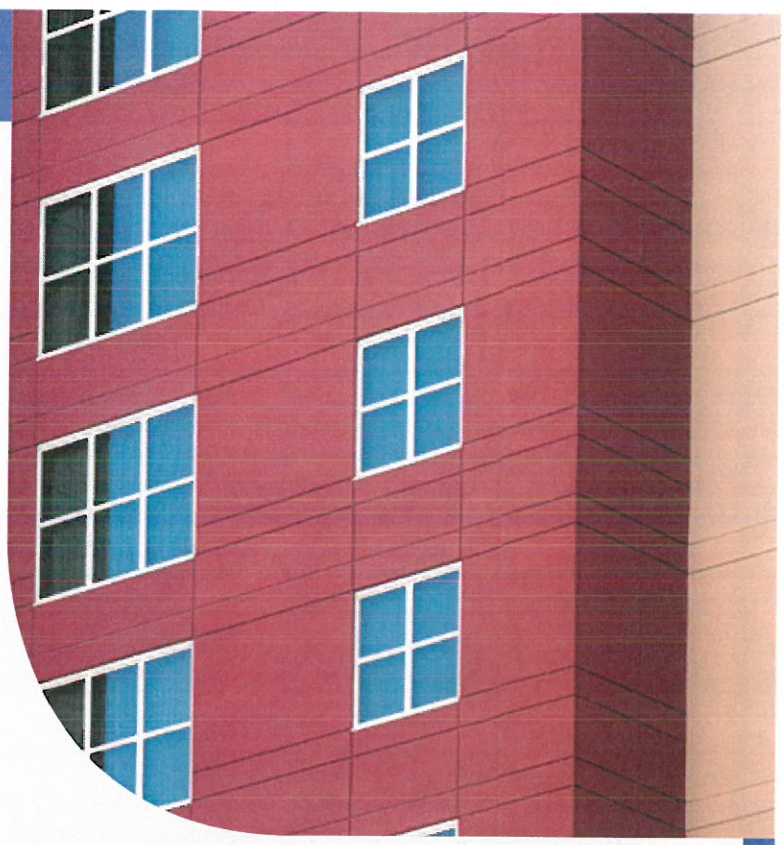
control of local government, the following measures significantly change existing law.

SB 167 (Skinner, Chapter 368, Statutes of 2017), AB 678 (Bocanegra, Chapter 373, Statutes of 2017), and AB 1515 (Daly, Chapter 378, Statutes of 2017) are three measures that were amended late in the 2017 legislative session to incorporate nearly all of the same changes to the Housing Accountability Act (HAA). The HAA significantly limits the ability of a jurisdiction to deny an affordable or market-rate housing project that is consistent with existing planning and zoning requirements (see "About the Housing Accountability Act" below). These measures amend the HAA as follows:

- Modifies the definition of mixed-use development to apply where at least two-thirds of the square footage is designated for residential use;
- Modifies the findings requirement to deny a housing development project to be supported by a preponderance of the evidence, rather than by substantial evidence in the record;
- Defines "lower density" to mean "any conditions that have the same effect or impact on the ability of the project to provide housing;"
- Requires an applicant to be notified if the jurisdiction considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement or other similar provision. The jurisdiction must provide such notice within 30 days of the application being determined complete for a project with 150 or fewer housing units, and within 60 days for project with more than 150 units. If the jurisdiction fails to provide the required notice, the project is deemed consistent, compliant and in conformity with the applicable plan, program, policy ordinance, standard, requirement or other similar provision: and
- Deems a housing development project "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."

About the Housing Accountability Act

The Housing Accountability Act states, "The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density of or render infeasible housing development projects. This intent has not been fulfilled."



SB 167, AB 678 and AB 1515 also provide new remedies for a court to compel a jurisdiction to comply with the HAA:

- If a court finds that a jurisdiction's findings are not supported by a preponderance of the evidence, the court must issue an order compelling compliance within 60 days. The court may issue an order directing the jurisdiction to approve the housing development project if the court finds that the jurisdiction acted in bad faith when it disapproved or conditionally approved the housing development project;
- If a jurisdiction fails to comply with the court order within 60 days, the court must impose fines on the jurisdiction at a minimum of $10,000 per unit in the housing development project on the date the application was deemed complete;
- If a jurisdiction fails to carry out a court order within 60 days, the court may issue further orders including an order to vacate the decision of the jurisdiction and to approve the housing development project as proposed by the applicant at the time the jurisdiction took the action determined to violate the HAA along with any standard conditions; and
- If the court finds that a jurisdiction acted in bad faith when it disapproved or conditionally approved a housing project and failed to carry out the court's order or judgment within 60 days, the court must multiply the $10,000 per-unit fine by a factor of five. "Bad faith includes but is not limited to an action that is frivolous or otherwise entirely without merit."

continued

Other Measures of Importance

In addition to the notable bills described here, Gov. Brown signed several other measures that provide new inclusionary powers to local governments, require additional General Plan reporting, increase housing element requirements and expand HCD's ability to review actions taken at the local level.

AB 1505 (Bloom, Chapter 376, Statutes of 2017) allows a jurisdiction to adopt an ordinance that requires a housing development to include a certain percentage of residential rental units affordable to and occupied by households with incomes that do not exceed limits for households with extremely low, very low, low or moderate income (see "AB 1505 Offers Solution to Palmer Decision" below). Such an ordinance must provide alternative means of compliance such as in-lieu fees, off-site construction, etc.

HCD may review any inclusionary rental housing ordinance adopted after Sept. 15, 2017, as follows:

- If the ordinance requires more than 15 percent to be occupied by households earning 80 percent or less of area median income and the jurisdiction failed to either meet at least 75 percent of its share of its above-moderate income RHNA (prorated based on the length of time within the planning period) or submit a General Plan annual report;
- HCD may request an economic feasibility study with evidence that such an ordinance does not unduly constrain the production of housing; and
- Within 90 days of submission of the economic feasibility study, HCD must decide whether the study meets the section's requirements. If not, the city must limit the ordinance to 15 percent low-income.

AB 1505 Offers Solution to Palmer Decision

The court in *Palmer/Sixth Street Properties L.P. v. City of Los Angeles*, (2009) 175 Cal. App. 4th 1396, invalidated a Los Angeles inclusionary housing requirement contained in a Specific Plan for an area of the city as applied to rental units on the basis that its pricing controls violated the Costa-Hawkins Act, which outlawed traditional rent control in new buildings in California. The court reasoned that the Costa-Hawkins Act pre-empted the application of inclusionary housing ordinances to rental housing. As a result of the decision, many cities with inclusionary housing ordinances suspended or amended their ordinances as applied to rental units; some adopted affordable housing rental impact fees. AB 1505 offers a solution and response to the *Palmer* decision.

AB 879 (Grayson, Chapter 374, Statutes of 2017) expands upon existing law that requires, by April 1 of each year, general law cities to send an annual report to their respective city councils, the state Office of Planning and Research (OPR) and HCD that includes information related to the implementation of the General Plan, including:

- The city's progress in meeting its share of RHNA;
- The city's progress in removing governmental constraints to the maintenance, improvement and development of housing; and
- Actions taken by the city toward completion of the programs identified in its housing element and the status of the city's compliance with the deadlines in its housing element.

Under AB 879, all cities including charter cities must submit an annual report containing the above information. In addition, cities must also provide the following new information in the annual report:

- The number of housing development applications received in the prior year;
- The number of units included in all development applications in the prior year;
- The number of units approved and disapproved in the prior year;
- A listing of sites rezoned to accommodate that portion of the city's RHNA for each income level that could not be accommodated in its housing element inventory and any additional sites identified under the "no net loss" provisions;
- The net number of new units of housing that have been issued a "completed entitlement," building permit or certificate of occupancy thus far in the housing element cycle (identified by the Assessor's Parcel Number) and the income category that each unit of housing satisfied (distinguishing between rental and for-sale units);
- The number of applications submitted under the new processing provided for by Section 65913.4 (enacted by SB 35), the location and number of developments approved pursuant to this new process, the total number of building permits issued pursuant to this new process and total number of units constructed pursuant to this new process; and
- The number of units approved within a Workforce Housing Opportunity Zone.

AB 879 also requires cities to include additional information when they submit their housing element to HCD, including:

- An analysis of governmental constraints that must include local ordinances that "directly impact the cost and supply of residential development"; and
- An analysis of nongovernmental constraints that must include requests to develop housing at densities below those anticipated in site inventory and the length of time between receiving approval for housing development and submittal of an application for building permit. The analysis must also include policies to remove nongovernmental constraints.

AB 1397 (Low, Chapter 375, Statutes of 2017) makes numerous changes to how a jurisdiction establishes its housing element site inventory. These changes include the following:

- Sites must be "available" for residential development and have "realistic and demonstrated" potential for redevelopment;
- Parcels must have sufficient water, sewer and dry utilities or part of a mandatory program to provide such utilities;
- Places restrictions on using nonvacant sites as part of the housing element inventory;
- Places limitations on continuing identification of nonvacant sites and certain vacant sites that have not been approved for housing development; and
- Stipulates that lower-income sites must be between one-half acre and 10 acres in size unless evidence is provided that a smaller or larger site is adequate.

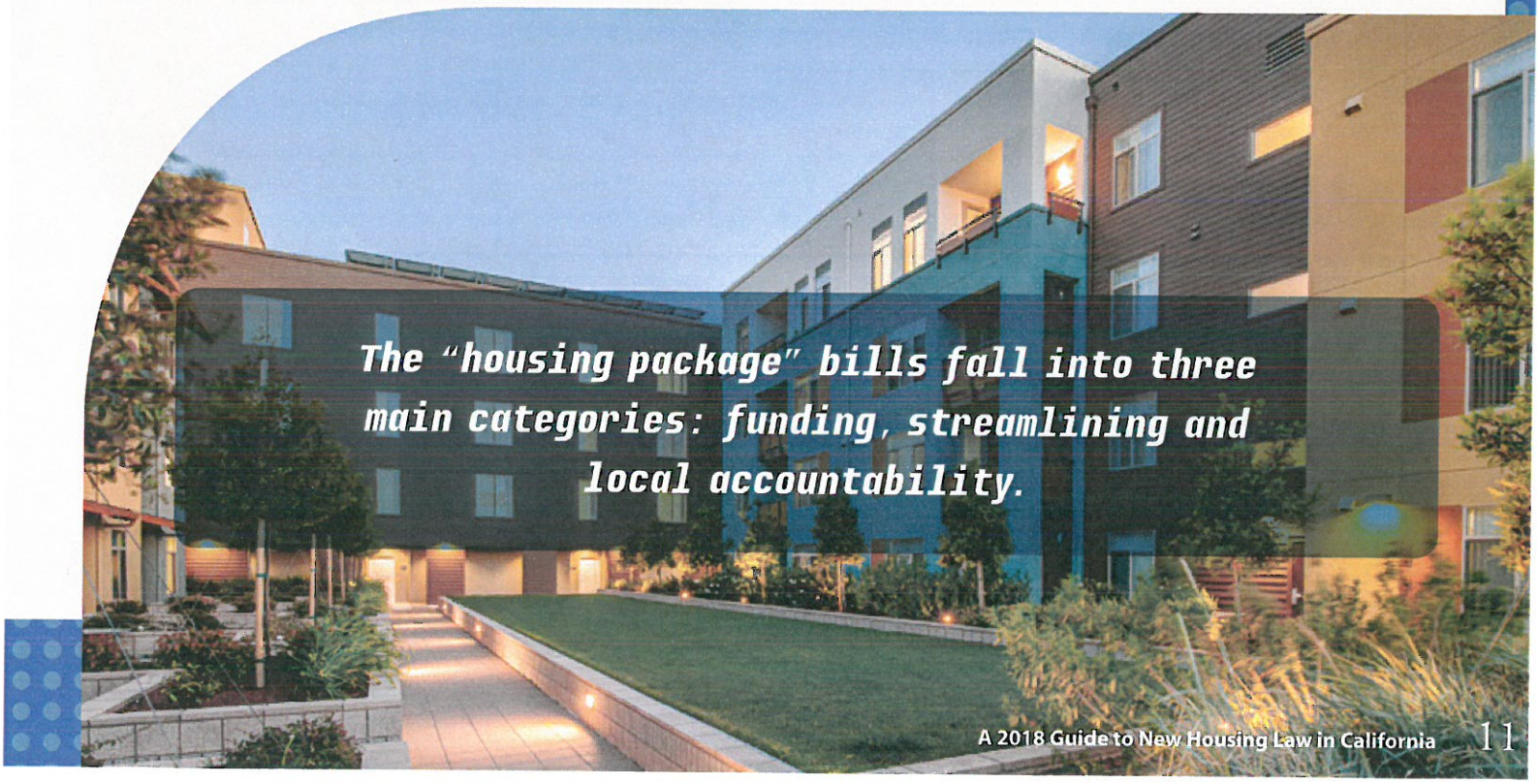
AB 72 (Santiago, Chapter 370, Statutes of 2017) provides HCD new broad authority to find a jurisdiction's housing element out of substantial compliance if it determines that the jurisdiction fails to act in compliance with its housing element and allows HCD to refer violations of law to the attorney general. Specifically, AB 72:

- Requires HCD to review any action or failure to act by a jurisdiction that it determines is "inconsistent" with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element;
- Requires HCD to issue written findings to the city as to whether the jurisdiction's action or failure to act complies with the jurisdiction's housing element or Section 65583 and provides no more than 30 days for the jurisdiction to respond to such findings. If HCD finds that the jurisdiction does not comply, then HCD can revoke its findings of compliance until the jurisdiction comes into compliance; and
- Provides that HCD may notify the attorney general that the jurisdiction is in violation of the Housing Accountability Act, Sections 65863, 65915 and 65008.

continued

Related Resources

For additional information and links to related resources, visit www.cacities.org/housing.



The "housing package" bills fall into three main categories: funding, streamlining and local accountability.

Looking Ahead

While it may appear that Gov. Brown and the Legislature made great progress in addressing the housing supply and affordability crisis gripping many regions of the state, the reality is somewhat more mixed. The passage of the 2017 housing package does not signal the end of the policy discussion. Aside from various incentive and funding measures, a portion of the housing package responded to a theme, championed by several advocacy groups and academics, that the local planning and approval process is the major cause of the state currently producing 100,000 units fewer annually than pre-recession levels. From a local government perspective, that assertion is incomplete and inaccurate. Going forward, it is time to dig deeper.

The legislative focus in 2017 lacked an exploration of other economic factors affecting the housing market. The foreclosure crisis resulted in displaced homeowners with damaged credit, widespread investor conversions of foreclosed single-family units into rentals and increasingly stringent lending criteria. Demographic factors may also affect demand as baby boomers with limited retirement savings and increased health-care costs approach retirement age. Younger residents, saddled with student debt, face challenges saving for down payments. Manufacturing and other higher-wage jobs are stagnating and being replaced via automation and conversion to a lower-wage service economy. Fewer skilled construction workers are available after many switched occupations during the recession.

Also missing in 2017 was a deeper examination of how other state policies intended to address legitimate issues affect land availability and the cost of housing. These include laws and policies aimed at limiting sprawl and protecting agricultural, coastal and open-space land from development; and building codes, energy standards, disabled access, wage requirements and other issues.

The funding for affordable housing approved during the 2017 session was certainly welcome — yet given the demand, it falls far short of the resources needed. It is unlikely, however, that cities can expect additional state funding for housing — other than the housing bond on the November ballot — from the Legislature in 2018.

Although many changes were made to the planning and approval process in 2017, local governments are still waiting for the market to fully recover and developers to step forward and propose housing projects at the levels observed prior to the recession. In 2018, a fuller examination by the Legislature is needed to explore the reasons why developers are not proposing projects at the pre-recession levels. Local governments cannot approve housing that is not proposed.

To make continued progress on housing in 2018, legislators should also consider creating more tools for local governments to fund infrastructure and affordable housing. Some legislators have begun discussing the need to restore a more robust redevelopment and affordable housing tool for local agencies, and that is encouraging. Reducing the local vote thresholds for infrastructure and affordable housing investments would also be helpful.

For more information, visit www.cacities.org/housing or contact Jason Rhine, legislative representative; phone: (916) 658-8264; email: jrhine@cacities.org. ■

Acknowledgments

Part I of this document is excerpted and adapted from "Finding Solutions to the Affordable Housing Crisis" by Carolyn Coleman, which appeared in the March 2017 issue of *Western City* magazine, the monthly publication of the League of California Cities online at www.westerncity.com.

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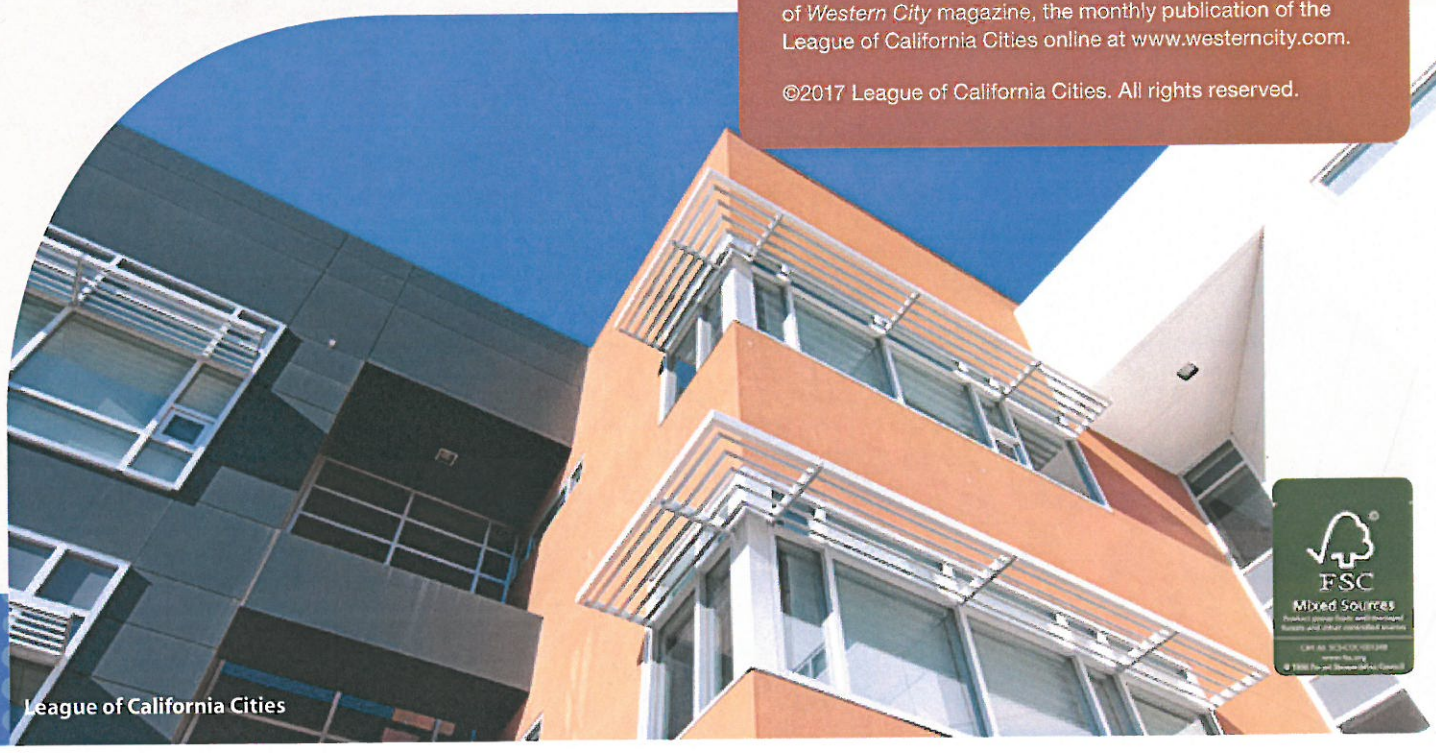

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Mixed Sources

City of Long Beach
Working Together to Serve

EXHIBIT 2

Date: April 4, 2017

To: Patrick H. West, City Manager

From: Amy J. Bodek, Director of Development Services

For: Mayor and Members of the City Council

Subject: **2016 State Density Bonus and Accessory Dwelling Units Legislation and Implications for Local Governments**

On February 21, 2017, the City Council requested the Development Services Department to review existing planning and zoning law and to provide recommendations for, by Ordinance, the creation and/or allowance of accessory dwelling units (ADUs) in single family and multifamily residential zones. This memorandum provides an update on this request.

As the State Legislature considers new housing proposals in 2017, it is important to understand the proposal in context with new State laws that have been enacted in 2016. This memorandum summarizes several 2016 California legislative actions that address the shortage of housing in the State. Reflecting an emphasis on housing policy, the State passed four density bonus bills and three second/accessory unit bills, to ease the review and approval process for new housing units. Several proposed bills for by-right affordable housing development, that would have required mandatory ministerial approval for projects typically subject to discretionary review, stalled in the summer of 2016, but similar bills for by-right development will be revisited during the 2016-17 legislative session.

Density Bonus Law

The purpose of Density Bonus Law (DBL) in California, initially enacted in 1979 by the State Legislature, is to encourage cities and counties to offer concessions or incentives to housing developments that include certain percentages of lower income units. Generally governed by *Government Code Section 65915, Density Bonuses and Other Incentives*, and recognized by California courts, DBL rewards a developer who agrees to build a certain percentage of low-income housing with the opportunity to build more units than would otherwise be permitted by applicable local regulations. By incentivizing developers, DBL promotes the construction of housing for a variety of income levels, including seniors. Under DBL provisions, a city or county must grant a density bonus, concessions and incentives, prescribed parking requirements, as well as waivers of development standards upon a developer's request when a certain percentage of lower income housing is included within a housing development proposal. In exchange for DBL, the units are covenanted to remain affordable to persons of low-, very low-, or moderate-income for a set period of time, usually 55 years.

Since 1983, the City has approved approximately 204 density bonus units, located within 18 development projects throughout the City. The attached matrix and location map depicts

the project address, number of density bonus units, and the expiration date of the units encumbered by affordability covenants.

The following is a summary of the Density Bonus Laws signed by Governor Brown in 2016:

AB 2442. ***Expands the categories of specialized housing that could qualify a development for a density bonus.***

- Recognizing the statewide need for certain types of specialized housing, AB 2442 adds that a density bonus of 20 percent shall be granted where at least 10 percent of the total housing units are designated for foster youth, disabled veterans, or homeless persons, and are offered at the same affordability levels as very-low income units.

AB 2501. ***Clarifies and streamlines the implementation procedure at the local level, while restating the objective of producing more housing units.***

- Requires local governments to expeditiously process density bonus applications by (a) adopting procedures and timelines, (b) providing applicants with a list of documents and information required for a density bonus application to be deemed complete, and (c) notifying applicants when applications are deemed complete in accordance with the Permit Streamlining Act. Local governments are prohibited from requiring the preparation of any additional reports or studies for a density bonus application, but may require reasonable documentation to establish eligibility for a requested density bonus, incentives, concessions, waivers, or reduced parking ratios.

- Slightly modifies the eligibility standards for incentives and concessions, and the burden of proof in denying a requested incentive or concession is now expressly on the local government.

- Adds language to make clear that each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.

- Makes clear that developers of density bonus projects may choose to accept no increase in density yet still be eligible to receive incentives and development standard waivers in exchange for covenanting a prescribed percentage of affordable units.

AB 2556. ***Addresses implementation questions related to the replacement of affordable units previously onsite.***

- AB 2222 was adopted in 2014, to ensure that housing units occupied by lower-income persons or households were not being wiped out and replaced with density bonus projects that yielded fewer net affordable units. AB 2556 will revise the

definition of "replace" to require a rebuttable presumption that lower income occupants lived in those units in the same proportion as the overall percentage of lower income occupants in the jurisdiction.

- AB 2556 also provides guidance regarding rent-controlled units by giving local government the power to require either (i) replacement with rental units subject to a recorded affordability restriction for at least 55 years, or (ii) replacement with units that remain subject to the local rent or price control ordinance.

- Provides guidance on the definition of "equivalent size" for replacement units, and states that the replacement units must contain at least the same total number of bedrooms as the units being replaced.

AB 1934. *Mixed Use Projects - Provides certain development bonuses for commercial developers that partner with affordable housing developers in conjunction with their commercial projects.*

- By opening DBL to commercial developers, AB 1934 seeks to address (a) the State's need for affordable housing, and (b) local government's desire for increased revenues, by encouraging non-traditional housing developers to enter the market, and think outside the box in their developments. This bill creates an opportunity for commercial developers to partner with an affordable housing developer to construct affordable units. The affordable housing developer would be eligible to receive bonuses, incentives and waivers for qualifying projects, and the commercial developer could also receive a "development bonus." This bonus includes incentives agreed upon between the commercial developer and the local government including but not limited to, modifications to maximum allowable intensity, maximum FAR, maximum height limits, minimum parking requirements, upper floor accessibility regulations, and zoning or land use regulations.

- AB 1934 includes a sunset provision that it will remain in effect only until January 1, 2022.

Accessory Dwelling Unit (ADU) Law

The State of California has also used the ADU to address the shortage of housing. ADUs, or "second units," allow an additional housing unit within single-family neighborhoods that permit only one home. State law deems that second units are not an increase in the allowable density.

California first enacted these laws in 1982, which have been amended five times, each time increasing the ease with which second units can be permitted. The amendment in 2002 (AB 1866) was a particular milestone, requiring that second units be permitted by-right, without any discretionary review. The State ADU law has always allowed for local jurisdictions to adopt their own second unit ordinance, crafting customized regulations for unique conditions. The City's second unit ordinance was last updated in 1988.

The following is a summary of ADU Laws signed by Governor Brown in 2016:

SB 1069 and AB 2299. ADUs – *Require that local jurisdictions allow ADUs when they meet certain standards; allows for jurisdictions to craft their own ADU ordinance.*

- SB 1069 and AB 2299 update the State's existing ADU regulations to require that local jurisdictions ministerially approve accessory units that meet established criteria, such as size limits and setbacks. These twin bills differ from the City's existing second unit ordinance by allowing greater flexibility, greater size allowances, and parking in certain setbacks. Furthermore, AB 2299 affects the City's ability to regulate certain provisions pertaining to parking, fire sprinklers and utilities.

- AB 2299 deems existing second unit ordinances null and void if they are more restrictive than the AB 2299 provisions. As such, the City's existing second unit ordinance is no longer effective and the City must comply with the new regulations. The City may, however, update its local ordinance to comply with AB 2299 requirements and retain or include regulations for ADUs that are not otherwise preempted by the State.

AB 2406. Junior Second Units – *Enables local jurisdictions to adopt an ordinance permitting "junior" second units.*

- Junior units could be permitted in situations where existing properties could not accommodate a full accessory dwelling unit. Junior units may be a maximum of 500 square feet and contain only limited kitchen and bath facilities.

<u>The Effect of New Legislation on Current City Regulations</u>

The City's current density bonus provisions are spelled out in Long Beach Municipal Code (LBMC), Section 21.63, Incentives for Affordable Housing. This section is written specifically to defer to State DBL. With a January 2017 effective date, the City's current zoning and development regulations will be updated to maintain consistency with new State DBL and ADU Laws. While the general framework of the City's existing regulations is consistent with current State law, (Purposes, Qualification, and Limitation), the following sections must be revisited:

- Procedures (21.63.040)
- Development Standards (21.63.050)
- Maintenance of Units (21.63.060)
- Additional Incentives (21.63.070)
- Waiver of Development Standards (21.63.080)
- Additional Financial Incentives

Similarly, the City's existing second unit regulations located in Section 21.51.27 of the LBMC, Secondary Housing Units ("Granny flats") should be updated to reflect the standards of State law. Doing so will allow the City to also include special development standards to respond to the City's specific characteristics. These standards could include lot size requirements and restriction of ADUs in certain areas of the City, such as coastal jurisdictions or parking impacted areas.

Next Steps

The City's current record of density bonus projects, as summarized in the attached matrix, indicates that while the City has approved development of 204 density bonus units in 18 projects, no density bonus projects have been entitled since 2012. There is no clear basis for this gap, however, as most residential development in the City over the last decade has occurred within and around Downtown. Likely, the adoption of the Downtown Plan in 2012, which permits the highest densities in the City, has been a factor.

Though DBL has been in effect for more than 35 years, both developers and cities have struggled with its application. As a result, many developers are either unaware of the law, are unsure of how it works, or don't perceive the bureaucratic burden of the process an appropriate tradeoff for additional density. Many cities share this concern and further are resistant to attempts to limit their police powers on multifamily development projects. However, as the housing crisis continues unabated, cities are being increasingly forced to limit the regulation of density bonus projects and to approve them by-right, or with minimal review.

Given the significant change in State DBL, staff recommends a comprehensive update of the City's density bonus, as well as the accessory dwelling unit regulations, to maintain consistency with State law.

If you have any questions regarding this matter, please call Linda Tatum, Planning Bureau Manager, at (562) 570-6261.

AJB:OO:lt
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Attachments: List of Density Bonus Projects
Map of Density Bonus Projects

cc: CHARLES PARKIN, CITY ATTORNEY
LAURA L. DOUD, CITY AUDITOR
TOM MODICA, ASSISTANT CITY MANAGER
ANITRA DEMPSEY, INTERIM DEPUTY CITY MANAGER
REBECCA JIMENEZ, ASSISTANT TO THE CITY MANAGER
OSCAR W. ORCI, DEPUTY DIRECTOR OF DEVELOPMENT
LINDA F. TATUM, PLANNING BUREAU MANAGER
CITY CLERK (REF. FILE #17-0134)

Density Bonus Projects in City of Long Beach, 1983-Present

enant Type	Density Bonus Units	Estimated?	Affordable Units	Total Units	Approval Date	Application #	Funding Source(s)	Expiration of Affordability	Data Source(s)
	10		41	41	2012	SPR 1111-08			case file
	11		36	46	2008			1/1/2064	Case File and Case Planner (SK)
	26		26	291	2007	0411-18	Density Bonus	9/20/2062	Case File
	2		22	22	2005	SPR 0504-01	Density Bonus		case file
	9	*	8	34	2004	0012-5			HCI list, case file (case file does not discuss density bonus)
	8		8	64	2004 condo conversion				case file
	5	*	20	20	1989	8904-8	Density Bonus	perpetuity	HCI list; total # from HE
	8	*	29	29	1989	8901-19		perpetuity	HCI list; total # from HE
	3				1988	8803-49 (HA named as agency)			HCI list; no blue card
/D	24	*	93	93	1987	490-87		perpetuity	HCI list; total # from HE
/D	4	**	44	93	1986; condo conversion 1990	253-85; (8902-28) (9008-16)		2050	**4 units on HCI list; 22 on blue card (waiting for file from archives)
	7	*	28	28	1986	CUP 324-86; 0108-	Density Bonus	perpetuity	project status log
	12		44	44	1985	145-85	HOME/Density Bonus	1/1/2061	HCI list; total # from HE and blue card
/D	23	*	40	88	1984	353-83	Density Bonus	perpetuity	HCI list; total # from HE
	4	*	16	16	1984	31-84	Density Bonus	perpetuity	HCI list; total # from HE
/F	27	*	90	102	1983	21-83 (HA named as agency)	Housing Authority; Density Bonus	perpetuity	HCI list; blue card
	14	*	54	54	1983	128-83	Density Bonus	perpetuity	HCI list; total # from HE
	6	*	25	25	1983			perpetuity	HCI list; total # from HE
s listed in HCI density bonus tracking sheet. # based on assumption of full 35% DB									
	49								
	204								
							Development Services/Planning Bureau – November 2016		

Density Bonus Long Beach

Density Bonus Properties

1. 2114 Long Beach Blvd
2. 2355 Long Beach Blvd
3. 421 W Broadway
4. 1500 Pine Ave
5. 834 E 4th St
6. 838 Pine Ave
7. 1330 Redondo Ave
8. 3485 Linden Ave
9. 2309 E 17th St
10. 425 E 3rd St
11. 1450 Locust Ave
12. 518 E 4th St
13. 745 Alamitos Ave
14. 645 Redondo Ave
15. 1542 Orizaba Ave
16. 926 Locust Ave
17. 1128 E 4th St
18. 3945 N Virginia Rd

City of Long Beach
Working Together to Serve

Office of the City Attorney

EXHIBIT 3

DATE: November 27, 2017

TO: Honorable Mayor and City Councilmembers

FROM: Michael J. Mais, Assistant City Attorney

SUBJECT: Senate Bill 35 (Streamlined Approval Process for Certain Types of Housing Developments)

We have recently received inquiries regarding newly enacted Senate Bill 35 and its relationship to the City's General Plan and Land Use Element (LUE). Below is a summary of the Bill's major provisions and we will be available to respond to specific questions regarding the potential impact of SB 35 on the LUE at the time the issue is brought before the Council in mid-December. In the meantime, if any member of the Council has a specific question regarding SB 35 or would like further briefing, please do not hesitate to contact us.

Senate Bill 35 (SB 35) is one of several housing related bills passed by the Legislature and signed by Governor Brown on September 29, 2017. SB 35 creates a streamlined approval process for certain multi-family type developments in cities and counties that have failed to approve enough housing projects to meet their state required Regional Housing Needs Allocation ("RHNA"). The new law is specifically applicable to charter cities such as Long Beach. Qualifying projects meeting the strict requirements of SB 35 could be approved on a "ministerial", rather than "discretionary" basis, and therefore would not be subject to full environmental review under the California Environmental Quality Act (CEQA). The purpose of SB 35 is to facilitate and expedite the approval and construction of affordable housing units throughout the state.

SB 35 requires Long Beach and other jurisdictions to enhance their annual reporting requirements to the State Department of Housing and Community Development (HCD) so HCD can determine whether a particular jurisdiction is on track to meet its RHNA allocation. For example, cities will be required to file an annual report with HCD that specifies the number of housing units, broken down by income category, that have been issued full entitlements for construction during the previous reporting period. If HCD determines that a jurisdiction is deficient in approving enough new housing units by income type (or if a jurisdiction fails to file the required annual reports with HCD), then the "streamlined" approval process could be available to a developer if a proposed development meets all of the other ridged requirements of SB 35. SB 35 also requires HCD to create new annual reporting forms for use by cities and counties and requires

HCD to develop new guidelines to implement the various provisions of SB 35. It is anticipated that the new guidelines may not be available from HCD until sometime during the end of calendar year 2018.

To qualify for a streamlined approval process, a project must involve a development that contains at least two residential units located on a legal parcel or parcels. The parcel must be in an area already zoned for residential or mixed residential use development under the City's existing zoning code and general plan land use designations. If the project is a mixed-use project, at least two-thirds of the square footage must be designated for residential use and the project must otherwise fully comply with the applicable zoning and design review standards for the area of the proposed development. A project would not qualify for streamlining if the Developer is seeking a variance from any of the applicable zoning regulations for the area. The developer must commit to dedicating a specified number of units for affordable housing and commit to paying prevailing wages (or subject the project to a bona fide collective bargaining agreement) to those engaged in the construction of the project, if the project involves the construction of more than nine (9) residential units.

SB 35 will not apply to all proposed projects. For example, the streamlined approval process would not apply to projects located in the City's coastal zone, wetland or other sensitive habitat areas, hazardous waste sites, land located within an earthquake fault zone or in a designated flood plain area. The streamlined process would also not apply if the project involved the demolition of existing low income housing or designated historic structures, or if the project would replace existing housing that is already deed restricted for affordable housing purposes.

Under SB 35, the City would be required to inform an applicant in writing whether a proposed project qualifies for the ministerial approval process within a maximum of ninety (90) days (depending on the size of a project) after submittal of a development application. If the City informs an applicant that they have submitted a qualifying application, the City would then be obligated to complete design review (including any Planning Commission or other public review) of the project within ninety (90) or one hundred and eighty (180) days, depending on the size of the project. The design review process is required to be based on objective criteria and cannot be conducted in a manner that would inhibit, chill or preclude ministerial approval of the proposed project.

If a project is approved using the streamlined approval process, SB 35 limits the City's ability to impose certain parking requirements or standards. The City would not have the ability to impose any parking standard if the development was located within one-half mile of public transit, was located within an architecturally and historically significant historic district, when on-street parking permits are required but not offered to the occupants of the proposed development, or when there is a car share vehicle located within one block of the proposed development. If a development did not fall within one of the above described categories the City could impose a parking standard that did not

exceed one parking space per unit. Of course, a developer always has the choice to provide parking even though the law does not require it.

The new laws established by SB 35 will remain effective, unless extended by the Legislature, until 2026.

MJM:kjm
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cc: Patrick J. West, City Manager
Tom Modica, Assistant City Attorney
Diana Tang, Manager of Government Affairs
Amy Bodek, Director of Development Services

Attachment 2

SUMMARY OF COMMUNITY ENGAGEMENT ACTIVITIES USED FOR THE LAND USE ELEMENT UPDATE 2004 –2017

Engagement Method	Accomplishments
Electronic Communication	» Internet website at www.longbeach2030.org, which included project summary, updates, event calendar, and major document depository » Phone hotline describing the current phase of the project, how to obtain and fill out a survey, and voicemail to leave a message for staff call-back
Direct contact	» E -mail blasts » Mailing list » Use of existing City engagement lists
City media engagement	» City Manager's weekly report » Community Planning monthly bulletin
Advertising	» Branding to facilitate project identity and awareness » Multi-lingual fact sheet containing a project summary and description of how to get involved and be heard » Newspaper » Variable message freeway signs » Targeted delivery » Posters distributed to businesses, schools, and other public facilities » Kiosk in City Hall lobby » Mobile "plan van"
Surveys	» Prepared in three languages » Internet » Direct mail and hand-outs at events » Personal delivery » Month-long phone bank involving 15 City staff planners contacting 185 organizations, stakeholders, businesses, and individuals during March 2007 » Engagement consulting firms canvassed neighborhoods with predominately minority populations, using bilingual representatives in certain neighborhoods
Events	» Festivals » Farmer's Markets » Music Concerts » Car Shows » Movie Nights » Study Sessions » Open House

LUE Engagement Events Since January 2016

The below-listed 58 community engagement events took place since January 2016. At the beginning of the LUE update process, between 2004-2008 over 100 community meetings and events were held to develop and inform the vision of the plan based on community input. This vision has remained consistent throughout the Plan's decade-long development pand serves as the foundation for developing the LUE and UDE. More information on the community engagement process, including meeting/event summaries and information on how feedback was incorporated at different stages of the planning pocess, can be found in the "General Plan Update Community Engagmeent Summary" found at www.longbeach.gov/lueude2040.

Date	Group	Council District(s)
3/30/2016	CD7 Meetings @ Veterans Park	7
6/8/2016	Belmont Heights Community Association	3
6/20/2016	Jane Adams Neighborhood Assoc	8
7/15/2016	Peninsula Improvement Committee	3
8/11/2016	Alamitos Beach Neighborhood Association	2
8/24/2016	Lakewood Village Neighborhood Association	5
9/7/2016	Coalition of Business Association (COBA) Long Beach	All
9/7/2016	Long Beach Rotary	All
10/1/2016	Belmont Heights, Rose Park, Hellman Districts	2,3
10/6/2016	Planning Commisison Study Session	All
10/13/2016	Cal-Heights Neighborhood Association	7
10/19/2016	Willmore City Heritage Association	1
10/27/2016	CD3 Town Hall - Rogers Middle School	3
10/28/2016	Safe Long Beach Coordination Team (leadership group)	All
11/2/2016	Citywide Open House	All
11/14/2016	Wrigley Association	7
12/1/2016	Safe Communities Workgroup of Safe Long Beach	All
12/5/2016	CSULB Student Focus Group	All
2/6/2017	Planning Commission Hearing	All
3/1/2017	Coalition of Business Association (COBA) Long Beach	All
3/9/2017	Meeting with East Yards for Environmental Justice	All
4/6/2017	Planning Commission Study Session at the Michelle Obama Library	All
5/11/2017	PopUp Event Outside Guanabana	7
5/12/2017	PopUp Event Outside the Dana Library	7
5/12/2017	East Yards for Environmental Justice	All
5/13/2017	PopUp Event Outside Steelhead	7
5/15/2017	PopUp Event Outside Wardlow Metro Station	7
5/30/2017	Wrigley Focus Group #1	7
6/1/2017	Wrigley Association Meeting	6
6/5/2017	Wrigley Focus Group #2	7

6/6/2017	CSULB Students and Faculty	All
6/7/2017	Housing and Homeless Advocates	All
6/9/2017	CD5 Open House	5
6/12/2017	Wrigley Focus Group #3	7
6/13/2017	City Council Study Session	All
6/15/2017	Planning Commission Study Session	All
7/17/2017	American Institute of Architects South Bay/Long Beach Board	All
7/19/2017	Bixby Knolls BID	6,7
7/27/2017	Recreation Park Neighborhood Coalition	4
8/17/2017	Planning Commission Hearing	All
9/15/2017	Real Estate Industry Forum	5
9/16/2017	Latinos in Action Health Fair	1, Central LB
9/20/2017	El Dorado Park Estates Community Meeting	5
9/26/2017	East Anaheim BID	4
9/30/2017	Citywide LUE Workshop at Veterans Park	6, citywide
10/4/2017	Citywide LUE Workshop at Whaley Park	4, citywide
10/4/2017	COBA (Business Improvement Districts)	8, citywide
10/6/2017	First Fridays in Bixby Knolls	8, citywide
10/10/2017	LGBTQ + Youth Focus Group at The Center	2, citywide
10/14/2017	Citywide LUE Workshop - Best Western Golden Sails	3, citywide
10/18/2017	Naples Business Association	3
10/18/2017	Citywide LUE Workshop at Scherer Park	8, citywide
10/13/2017	Commercial Real Estate Brokers	5, citywide
10/11/2017	Long Beach Bicycle Roundtable Meeting	2, citywide
10/23/2017	LBCC Student Discussion	5, citywide
10/25/2017	LGBTQ + Youth Focus Group at The Center	2, citywide
10/28/2017	Beach Streets Uptown	8/9, citywide
10/28/2017	OLOC (Older Lesbians Organizing for Change)	6, citywide