



# City of Sunnyvale

## Notice and Agenda Housing and Human Services Commission

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Wednesday, February 28, 2018

7:00 PM

West Conference Room, City Hall, 456 W.  
Olive Ave., Sunnyvale, CA 94086

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### **CALL TO ORDER**

### **SALUTE TO THE FLAG**

### **ROLL CALL**

### **PRESENTATION**

[18-0130](#)

Proposals for CDBG/HOME Capital and Housing Projects for  
FY 2018/19

### **ORAL COMMUNICATIONS**

*This category provides an opportunity for members of the public to address the commission on items not listed on the agenda and is limited to 15 minutes (may be extended or continued after the public hearings/general business section of the agenda at the discretion of the Chair) with a maximum of up to three minutes per speaker. Please note the Brown Act (Open Meeting Law) does not allow commissioners to take action on an item not listed on the agenda. If you wish to address the commission, please complete a speaker card and give it to the Recording Secretary. Individuals are limited to one appearance during this section.*

### **CONSENT CALENDAR**

- 1.A [18-0129](#) Approve the Housing and Human Services Commission Meeting Minutes of January 17, 2018

**Recommendation:** Approve the Housing and Human Services Commission Minutes of January 17, 2018 as submitted.

### **PUBLIC HEARINGS/GENERAL BUSINESS**

- 2 [18-0131](#) Overview of 2017 Housing Strategy (CDD 17-09)

**STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

**NON-AGENDA ITEMS & COMMENTS**

-Commissioner Comments

-Staff Comments

**INFORMATION ONLY REPORTS/ITEMS**

[18-0133](#)      RTC 17-1069: Review Draft Work Plan for 2017 Housing  
Strategy (Study Issue)

[18-0134](#)      RTC 17-1208: Review of 2017 Housing Legislation

**ADJOURNMENT**

*Notice to the Public:*

*Any agenda related writings or documents distributed to members of this meeting body regarding any item on this agenda will be made available for public inspection in the originating department or can be accessed through the Office of the City Clerk located at 603 All America Way, Sunnyvale, CA. during normal business hours and at the meeting location on the evening of the board or commission meeting, pursuant to Government Code §54957.5.*

*Agenda information is available by contacting Edith Alanis at (408) 730-7254. Agendas and associated reports are also available on the City's website at [sunnyvale.ca.gov](http://sunnyvale.ca.gov) or at the Sunnyvale Public Library, 665 W. Olive Ave., Sunnyvale, 72 hours before the meeting.*

*Pursuant to the Americans with Disabilities Act, if you need special assistance in this meeting, please contact Edith Alanis at (408) 730-7254. Notification of 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.160 (b) (1))*



# City of Sunnyvale

## Agenda Item

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**18-0130**

**Agenda Date:** 2/28/2018

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Proposals for CDBG/HOME Capital and Housing Projects for FY 2018/19



# City of Sunnyvale

## Agenda Item

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18-0129

Agenda Date: 2/28/2018

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### **SUBJECT**

Approve the Housing and Human Services Commission Meeting Minutes of January 17, 2018

### **RECOMMENDATION**

Approve the Housing and Human Services Commission Minutes of January 17, 2018 as submitted.



# City of Sunnyvale

## Meeting Minutes - Draft

### Housing and Human Services Commission

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Wednesday, January 17, 2018

7:00 PM

West Conference Room, City Hall, 456 W.  
Olive Ave., Sunnyvale, CA 94086

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#### Special Meeting

#### **CALL TO ORDER**

Chair Grossman called the meeting to order at 7:02 p.m.

#### **SALUTE TO THE FLAG**

Chair Grossman led the salute to the flag.

#### **ROLL CALL**

**Present:** 5 - Chair Joshua Grossman  
Vice Chair Avaninder Singh  
Commissioner Patti Evans  
Commissioner Ken Hiremath  
Commissioner Minjung Kwok  
**Absent:** 2 - Commissioner Diana Gilbert  
Commissioner Elinor Stetson

**Commissioner Diana Gilbert (excused)**  
**Commissioner Elinor Stetson (excused)**  
**Council Liaison Michael S. Goldman (absent)**

#### **ORAL COMMUNICATIONS**

Chair Grossman expressed his concerns about the process for the Chair to add items to the commission's meeting agenda. He asked staff for clarification of the City's policy on this and expressed frustration about the timeliness of staff's response to his request for a meeting with the City Manager to discuss this process.

There were no comments from the public.

#### **CONSENT CALENDAR**

Chair Grossman asked if anyone wanted to pull any item on the consent calendar or make a motion to approve it.

MOTION: Commissioner Evans moved and Commissioner Hiremath seconded to pull item 1.B: Approve 2018 Draft Master Work Plan, from the consent calendar for discussion.

The motion carried by the following vote:

**Yes:** 5 - Chair Grossman  
Vice Chair Singh  
Commissioner Evans  
Commissioner Hiremath  
Commissioner Kwok

**No:** 0

**Absent:** 2 - Commissioner Gilbert  
Commissioner Stetson

**1.A**     [17-1182](#)     Approve the Housing and Human Services Commission Meeting Minutes of November 15, 2017

MOTION: Commissioner Evans moved and Vice Chair Singh seconded the motion to Approve the consent calendar comprised only of item 1.A Approve the Housing and Human Services Commission Minutes of November 15, 2017 as submitted.

Item 1.B to be discussed after approval of the consent calendar.

The motion carried by the following vote:

**Yes:** 5 - Chair Grossman  
Vice Chair Singh  
Commissioner Evans  
Commissioner Hiremath  
Commissioner Kwok

**No:** 0

**Absent:** 2 - Commissioner Gilbert  
Commissioner Stetson

**1.B**     [17-1183](#)     Approve 2018 Draft Master Work Plan

Housing Officer Suzanne Ise gave a brief overview of the items that have been scheduled on the Master Work Plan and noted that many of them are related to the Department of Housing and Urban Development (HUD) deadlines for spending

HUD grants to the City. She explained that consent calendar items are not included on the Work Plan, and that more items may be added after the City Council had held its Study Issues Workshop in February, or any time later in the year as needed.

After additional questions of staff, Chair Grossman asked for a motion.

MOTION: Commissioner Hiremath moved and Commissioner Kwok seconded to approve the Draft Master Work Plan as provided in the meeting materials.

The motion carried by the following vote:

**Yes:** 5 - Chair Grossman  
Vice Chair Singh  
Commissioner Evans  
Commissioner Hiremath  
Commissioner Kwok

**No:** 0

**Absent:** 2 - Commissioner Gilbert  
Commissioner Stetson

#### **PUBLIC HEARINGS/GENERAL BUSINESS**

- 2**      [17-1184](#)      Review Draft Request for Proposals for FY 2018 Capital and Housing Projects

Housing Officer Suzanne Isé provided the staff report.

Chair Grossman opened the public hearing at 7:53 p.m.

Chris Anderson, Downtown Streets Team Project Manager, gave an update on the current progress of the WorkFirst Sunnyvale program and thanked the commissioners for their funding recommendation and support during the last funding cycle.

Marie Bernard, Sunnyvale Community Services Executive Director, spoke about the partnership with Downtown Streets Team and noted the effect in attitude toward homeless individuals that the WorkFirst model has had on the community.

Chair Grossman closed the public hearing at 8:11 p.m.

Chair Grossman opened the floor for discussion and/or questions from the commissioners. Following a brief discussion, he asked for a motion.

MOTION: Vice Chair Singh moved and Commissioner Evans seconded the motion to approve the draft RFP with the following changes to the scoring system, for this RFP only: Rather than giving the same weight (20 points) to each of the five categories, he moved to reduce categories one and four to 15 points each; increase categories two and three to 25 points each; and leave category five unchanged at 20 points.

The motion carried by the following vote:

**Yes: 5 -** Chair Grossman  
Vice Chair Singh  
Commissioner Evans  
Commissioner Hiremath  
Commissioner Kwok

**No: 0**

**Absent: 2 -** Commissioner Gilbert  
Commissioner Stetson

#### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

None.

#### **NON-AGENDA ITEMS & COMMENTS**

##### **-Commissioner Comments**

Commissioner Evans, the Commission's representative on the El Camino Real Plan Advisory Committee, provided an update on the committee's recent progress in the effort to update the El Camino Real Corridor Specific Plan.

##### **-Staff Comments**

None.

#### **ADJOURNMENT**

Chair Grossman asked for a motion to adjourn.

MOTION: Commissioner Hiremath moved and Vice Chair Singh seconded to adjourn the meeting at 8:38 p.m.



The motion carried by the following vote:

**Yes:** 5 - Chair Grossman  
Vice Chair Singh  
Commissioner Evans  
Commissioner Hiremath  
Commissioner Kwok

**No:** 0

**Absent:** 2 - Commissioner Gilbert  
Commissioner Stetson



# City of Sunnyvale

## Agenda Item

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18-0131

Agenda Date: 2/28/2018

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Overview of 2017 Housing Strategy (CDD 17-09)



# City of Sunnyvale

## Agenda Item

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18-0133

Agenda Date: 2/28/2018

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### **INFORMATION ONLY**

RTC 17-1069: Review Draft Work Plan for 2017 Housing Strategy (Study Issue)



# City of Sunnyvale

## Agenda Item

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17-1069

Agenda Date: 12/12/2017

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### REPORT TO COUNCIL

#### **SUBJECT**

Review Draft Work Plan for 2017 Housing Strategy (Study Issue)

#### **BACKGROUND**

The 2017 Housing Strategy study issue, CDD 17-09, was ranked number one by Council among all proposed Community Development Department (CDD) study issues in 2017. The study issue paper is included as Attachment 1 to this report. This study issue consists of a combination of several more narrowly focused study issues proposed by commissions and/or Council on housing policy issues. Staff proposed this study as a more holistic and integrated alternative to doing several highly specific but possibly disjointed study issues. The scope of this study was further refined through Council direction during the study issues workshop in February and the March 28, 2017 hearing on the proposed timeline for the ranked study issues (RTC No. 17-0156). A budget supplement to provide \$200,000 in funding for this project was approved by Council as part of the 2017-18 Adopted Budget. That budget is available for consultant studies and/or contract staff as may be needed to complete the study, manage the public outreach process, and finalize the reports and related materials for Council and commissions' consideration.

#### **EXISTING POLICY**

General Plan: 2015-2023 Housing Element

**Goal A:** Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.

See Attachment 3 for the list of all General Plan Housing Element goals and policies.

#### **ENVIRONMENTAL REVIEW**

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

#### **DISCUSSION**

Although this study originated from a diverse set of issues, the general goal of the 2017 Housing Strategy is to refine the City's long-term housing strategy to identify potential improvements to existing programs and approaches, and/or potential new approaches to increase affordable housing stock and/or improve affordability of housing in the City.

Staff has prepared a draft Work Plan and Scope of Work (Attachment 2) for this study issue based on the original paper and input received to date from Council. In addition, the Scope of Work has been expanded slightly since March to accommodate additional tasks needed to analyze and respond to

new State laws related to housing (the “2017 Housing Package”). Some of the new laws in that package require cities to modify their current procedures for development review, dwelling unit data collection and reporting related to new residential developments. One of those laws, the “Palmer fix” bill, allows cities to adopt or reinstate prior inclusionary housing requirements for rental housing. That change will also be analyzed through this study, as it provides the City with another tool to use to generate more affordable rental units within new developments.

In addition to the shifting landscape of California laws related to development review, zoning, and housing production, the federal tax reform legislation currently being considered in Congress may create new challenges to affordable rental housing production and/or for first-time home buyers. For these reasons, staff recommends that Council provide staff with flexibility to adjust the scope of work as needed to respond to significant state or federal legislation or other policy actions that may be enacted in the near term that may create significant impacts on the City’s current or planned housing efforts.

### Context for Study

The City will be undertaking this study in a time of significant change in State law related to housing development and pending significant changes to federal housing policy and subsidy levels which will impact staff workload. In addition, the City continues to experience historically high volumes of development activity (of all types). During the same time-period when this study will be undertaken, staff will also be completing certain periodic activities required by the federal government, including the 2018-19 Assessment of Fair Housing (AFH) and 2020 HUD Consolidated Plan (ConPlan) update, and preparation for the 2020 Census. This background workload will raise issues related to, and help to inform the development of the Housing Strategy. It will also require the City to focus the scope of this study so that it can be completed with the budget and staff resources available.

### Work Plan and Scope of Work

Attachment 2 is the detailed workplan and scope of work for the Housing Strategy. The workplan schedule is approximately one year to complete the review and return to City Council with a final report. The scope of work states the goal of (and context for) the study and lists the main study items, summarized below.

- 1) **Rent stabilization** programs for Sunnyvale mobile home parks
- 2) **Age-friendliness** of housing in Sunnyvale
- 3) **Supply-side** housing efforts, such as:
  - More generous affordable housing project financing
  - Land acquisition financing program for non-profit developers
  - Enacting a rental inclusionary ordinance consistent with AB 1505, and/or
  - Updating the condominium conversion ordinance;
- 4) **Demand-side** approaches, such as:
  - Educational programs on financial literacy, homebuyer education, tenant education, or
  - Other possible demand-side approaches not currently offered by the City;
- 5) If contract funding is available after items 1-4 are addressed, any of the following items may be added to the scope:
  - **Development Review:** Refine development review procedures, refine tracking or reporting procedures, and/or other operational changes
  - **Funding:** Analyze new State laws to identify any new planning and/or funding

opportunities

- **Accessory Dwelling Units (ADUs):** Consider methods to improve code compliance and health and safety among properties with unpermitted ADUs
- **Housing Element Objectives:** Describe and analyze options related to housing policy objectives not yet completed from 2015 Housing Element

### **Community Engagement**

The study will include a variety of outreach techniques designed to reach a broad spectrum of: local residents and workers; public agencies such as school districts; non-profit organizations; faith communities and cultural organizations; neighborhood associations; residential developers and real estate industry professionals; local employers and/or business associations; mobile home park residents and interest groups; housing policy groups; equity and environmental groups; city boards and commissions; and, any other interested stakeholders.

Staff maintains an outreach database of more than 200 parties interested in housing and community development issues in the local area, an affordable housing ("BMR") interest list of more than 1,000 affordable home-seekers and other interested parties, and has a list of several hundred email subscribers to the Housing e-newsletter. Staff will use these communication channels, as well as "Update Sunnyvale", Open City Hall, and news posts and related content on the City website to invite all existing contacts and other community members to participate in this process and to keep interested parties informed about the 2017 Housing Strategy. The community will be invited to participate in review and conversation through periodic meetings and hearings. Staff has tentatively included a late February presentation to the Housing and Human Services Commission to present the work plan, scope of work, and any additional progress staff may have to report at that time.

### **FISCAL IMPACT**

The recommended action will not impact the General Fund, as the funding for this study is included in the 2017/18 Adopted Budget.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

### **ALTERNATIVES**

1. Approve Work Plan and Scope of Work as shown in Attachment 2 to the report.
2. Approve Work Plan and Scope of Work with modifications as specified by Council.
3. Other direction.

### **STAFF RECOMMENDATION**

Alternative 1: Approve Work Plan and Scope of Work as shown in Attachment 2 to the report.

Though staff recommends Alternative 1, Council may choose Alternative 2 to provide direction to further focus or refine the scope of work or work plan.

Prepared by: Suzanne Isé, Housing Officer

Reviewed by: Trudi Ryan, Director, Community Development Department

Reviewed by: Teri Silva, Interim Assistant City Manager

Approved by: Kent Steffens, Interim City Manager

**ATTACHMENTS**

1. Study Issue Paper CDD 17-09
2. Draft Work Plan and Scope of Work
3. General Plan Housing Element Goals and Policies



# City of Sunnyvale

## Agenda Item

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17-0219

Agenda Date: 2/17/2017

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### 2017 COUNCIL STUDY ISSUE

#### **NUMBER**

CDD 17-09

#### **TITLE** 2017 Housing Strategy

#### **BACKGROUND**

**Lead Department:** Community Development

**Support Department(s):** Office of the City Attorney, Office of the City Manager

#### **Sponsor(s):**

City Manager

#### **History:**

1 year ago: N/A

2 years ago: N/A

#### **SCOPE OF THE STUDY**

##### **What are the key elements of the study?**

This study issue is offered as an alternative to the housing related studies that have been proposed:

- CDD 17-03 Rent Stabilization for Mobile Home Parks
- CDD 17-05 Consider Revising Certain Requirements of the Sunnyvale Municipal Code Chapter 19.72: Mobile Home Park Conversions
- CDD 17-06 Explore Introduction of a Rent Stabilization Ordinance

As discussed during the Strategic Policy Priority setting process, City staff relayed that the larger message taken from the collection of submitted housing study issues is that there is a desire to make sure that the City's housing policies, particularly for affordable housing, were appropriately meeting the needs of the community and goals of the City Council. Rather than absorbing a collection of issues to examine, it may be that these individual study issues combined will not fully address the housing needs of the community and staff would like the opportunity for the City Council to consider a more comprehensive approach that exceeds the topics submitted (and, in some cases, may integrate them fully) as it manages limited staff resources.

Plus, there is the following potential study issue, as previously sponsored by the Planning Commission and later voted to drop:

- CDD 17-07 Review and Consider Increasing the Below Market Rate (BMR) Ownership Housing Requirements (Chapter 19.67 of the Municipal Code)

As an alternative, staff feels that the City's sponsored Study Issue would complement several other



planned activities for the Housing Division in 2017.

- Legislative Advocacy: Monitoring (and advocating on the City's behalf, as needed) federal and state housing policy changes, including matters related to funding, key federal program regulations, and new legislation (mainly at the state level). State legislation already in process or expected to appear includes a variety of topics important to the City, such as: clean-up bills related to 2016 accessory dwelling unit bills; bills proposing to significantly change local permit processes ("by-right" bills) and/or the CEQA process related to housing development, and bills related to local jurisdictions' performance under current housing laws, such as the housing element law and various related laws. By the end of January 2017 there were at least seven new housing-related bills in various stages of preparation, at the state legislature. Various changes in federal housing policy, federal rule-making, and funding availability have either begun to occur or are expected to occur within the fiscal year, particularly during the federal appropriations process for the next federal fiscal year. Some federal policy makers have already suggested significant cuts to federal programs, even complete elimination of the Community Development Block Grant (CDBG) under which the City receives approximately \$1 million in grant funds annually
- Major Capital Projects: (new or rehabilitated housing developments completed with City financing and oversight). Staff is currently managing several major affordable housing development projects at various stages in the pipeline, including two new construction projects (Benner Plaza and the Block 15 affordable housing site in Downtown) and several rehabilitation projects (Eight Trees, Crescent Terrace, Orchard Gardens). In addition, many older properties previously assisted by the City have reached a phase where time-consuming compliance and asset management activities are required, such as updating and modifying existing agreements to allow for the exit of limited investor partners, revisiting loan terms, etc.
- Housing Element Policy Objectives: The adopted 2015-2023 Housing Element includes several actions requiring further study that are supposed to be completed within the next year or two. These include: a study of options to expand areas where accessory dwelling units (ADUs) can be developed, primarily by lowering the minimum lot size requirement; a study of options for requiring landlords to provide relocation assistance for tenants of standard rental units (apartments, etc.) when those units are removed from the market through redevelopment or substantial rehabilitation requiring temporary or permanent relocation; a study of possible incentive programs or policies for Priority Development Areas to encourage development of more affordable units; and a study of funding policies and priorities for the City's current housing mitigation fee revenues
- Development Review (Housing Related): There are several major developments already entitled or in the application phase that will require significant amount of time from the Housing and legal staff this year; completing the project's Below Market Rate, Density Bonus, and/or fee-related agreements, due to the variety of options developers can pursue in complying with the City's BMR and/or fee requirements. These projects include the AMD site redevelopment, Butcher's Corner, Town Center, and several density bonus rental projects (Sobrato on Karlstad and Greystar on Kifer, among others). In addition, the large number of affordable units currently in the pipeline (~500) will require significant work by Housing staff in assisting developers to market and lease or sell these units, as applicable, such as through lotteries, waiting lists, or general marketing efforts. Development review efforts also include oversight of proposed and/or approved mobile home park conversions and/or subdivisions of various kinds, and any tenant relocation efforts in process. In addition, properties with expiring affordable units, such as the recent Grove Garden project and upcoming expirations in BMR

rental projects, require significant staff effort to assist tenants in finding other housing.

Staff has proposed this study to undertake a more comprehensive look at the City's current market conditions, current policies, programs, planned studies, proposed studies, and existing pipeline of affordable units, in the context of external forces that impact the City's housing stock, including federal, state, and private sector actions. The intended outcome of this study would be a comprehensive strategy that would offer the City guidance in using its limited funding and staffing resources in the most effective way to positively impact current local housing conditions for local residents and workers, focusing on issues such as affordability, accessibility, quality, and sustainability (both in the financial and environmental sense). The study could also propose changes in the City's existing practices that promote the Council's desired goals.

Additional ideas that may be analyzed as part of this study could include any of those on the list below, which were presented at the City Council strategic planning sessions in 2017.

#### **Supply-side (producer) approaches**

- Relax development standards to reduce development costs
- Further streamline development review process / Expand by-right zoning (state may impose on cities anyway)
- More generous project funding/underwriting standards\*
- Develop Land Acquisition Assistance Program\*
- Condo conversion ordinance update\*

#### **Demand-side (consumer) approaches**

- Expand down payment & renter assistance programs
- Expand current programs to new income levels (e.g., above 120% AMI)
- Increase Education Programs (financial literacy, homebuyer education, tenant education)\*
- BMR expansion (related to proposed Study Issue: CDD-17-07)
- Rent stabilization (related to other proposed Study Issues: CDD 17-03 and CDD 17-06)
- Other mobile home related items (related to proposed Study Issue: CDD 17-05)

\*Staff has preliminarily identified these strategies as being the most impactful for Sunnyvale.

#### **What precipitated this study?**

There is growing concern about the affordability and availability of housing in Sunnyvale and the region. There are several other proposed study issues focused on specific concerns or solutions; this study is proposed as a more holistic examination of the overall local housing context, to analyze which strategies could be implemented by the City most effectively and to assist the largest number of local residents and/or housing seekers. These strategies could consist of modifications/enhancements to existing housing programs, integration of proposed study issues, introduction of new programs, changes to City policies or regulations, or other strategies.

**Planned Completion Year:** 2017/2018

**FISCAL IMPACT****Cost to Conduct Study**

Level of staff effort required (opportunity cost): Major

Amount of funding above current budget required: \$ 200,000

Funding Source: Will seek budget supplement

**Explanation of Cost:**

There is minimal capacity in the Community Development Department for housing-related studies this year due to the large number of affordable housing development projects, policy projects, development review-related workload, legislative advocacy and general operational workload currently impacting staff, as described above. The funding would be used to hire one or more specialized consultants with expertise in these areas, such as an economic/financial firm and housing policy/programs firm, as well as short-term provisional or contract staff to manage the consultant contracts, plan and manage public outreach efforts, and respond to public inquiries related to the study. The work of the staff and consultants would be overseen by the Housing Officer.

**Cost to Implement Study Results**

Unknown. Study would include assessment of potential costs.

Explanation of Cost: The study will include an assessment of existing revenue sources for housing programs and projects, and whether changes in how the various housing activities are administered and/or current City codes or policies could be modified to reduce project or program costs.

**EXPECTED PARTICIPATION IN THE PROCESS**

Council-approved work plan: Yes

Council Study Session: Yes

Reviewed by Boards/Commissions: Housing and Human Services; possibly Planning Commission if changes to zoning regulations are proposed.

**STAFF RECOMMENDATION**

**Position:** Support

**Explanation:** The study is recommended as an alternative to the other housing-related study issues proposed for 2017 to provide a more comprehensive review of options for improving the production and availability of affordable housing and addressing other areas of public concern related to housing.

Prepared By: Suzanne Ise, Housing Officer

Reviewed By: Trudi Ryan, Director, Community Development

Reviewed By: Kent Steffens, Assistant City Manager

Approved By: Deanna J. Santana, City Manager

**Draft Work Plan and Scope of Work for 2017 Housing Strategy**  
Study Issue CDD 17-09

**WORK PLAN**

<b>Task</b>	<b>Responsible Party</b>	<b>Complete by</b>
Prepare Draft Work Plan & Scope of Work	Staff (CDD)	Nov. 17, 2017
Review & Approve Draft Work Plan & Scope of Work	Council	Dec. 12, 2017
Issue RFP for Consultants, begin internal data gathering/research for project	Staff (CDD, Purchasing)	Jan. 30, 2018
Interim Progress Report to HHSC (Work Plan/Scope of Work Overview)	Staff	March 1, 2018
Select consultant, award contract, begin study	Staff (CDD), consultant	March 15, 2018
Hire part-time staff support (if needed)	Staff (CDD, HR)	April 30, 2018
Review initial findings/report from consultant, begin community outreach	Staff, consultant	May 15, 2018
Continue community engagement, analyze results, refine strategy	Staff, consultant	Aug. 2018
Hold hearings on study findings, recommended strategy (HHSC, possibly Planning Commission depending on extent of strategy related to zoning code and/or land use issues)	Staff, consultant HHSC, (PC)	Sep – Nov. 2018
Incorporate B/C recommendations, public input, hold Council study session (if needed), prepare final report to Council, final Council action	Staff, consultant, Council	Dec. 2018 – Jan 2019

**Draft Work Plan and Scope of Work for 2017 Housing Strategy**  
Study Issue CDD 17-09

**SCOPE OF WORK**

- Goal:** The goal of the 2017 Housing Strategy is to refine the City's long-term housing strategy to identify potential improvements to existing programs and approaches, and/or potential new approaches to increase affordable housing stock and/or improve affordability of the local housing market.
- Context:** The City is undertaking this study in a time of significant change in State law related to housing development and pending substantial changes to federal housing policy and subsidy levels. In addition, the local context includes all-time historically high volumes of development activity (of all types), and periodic operational activities in CDD, including the 2018-19 Assessment of Fair Housing (AFH) and 2020 HUD Consolidated Plan (ConPlan) update, and preparation for the 2020 Census. The City must complete the AFH, ConPlan update and Census activities to meet federal requirements. This context will raise issues related to, and help to inform the development of the Housing Strategy. In addition, mandatory workloads related to these state and federal requirements will require that the City maintain discipline by carefully focusing the scope of this study so that it can be completed with the budget and staff resources available. If not, additional budget and staffing resources will be needed, or the timeline for completion may need to be extended.

Scope of study, consistent with Council direction to date, includes the following:

- 1) Describe and analyze options, pros and cons of space rent stabilization programs for Sunnyvale mobile home parks, potential costs and funding structures for implementation of such a program, and feasibility of park acquisition options (by residents, co-op and/or non-profit entities). Provide a high-level overview of the general effectiveness of current mobile home park conversion policy (Chapter 19.72); and
- 2) Review the age-friendliness of housing in Sunnyvale. Describe cost-effective, legally feasible options for improving its age-friendliness through City policy or practice;
- 3) Describe and analyze options related to supply-side housing efforts, such as, but not limited to: more generous affordable housing project financing, land acquisition financing program for non-profit developers, enacting a rental inclusionary ordinance consistent with AB 1505, and/or updating the condominium conversion ordinance;
- 4) Describe and analyze options related to demand-side approaches, such as, but not limited to: educational programs on financial literacy, homebuyer education,

**Draft Work Plan and Scope of Work for 2017 Housing Strategy**  
Study Issue CDD 17-09

tenant education, or other possible demand-side approaches not currently offered by City;

- 5) If contract funding is available after items 1-4 are addressed, any of the following items may be added to the scope, after initial negotiations with selected consultant and at the direction of the CDD Director:
  - a) Refining development review procedures for housing developments, refining tracking or reporting procedures, and/or other operational changes that may be needed to comply with the mandatory aspects of new State laws (the “2017 Housing Package”);
  - b) Analyzing new State laws to identify any new planning and/or funding opportunities that may be worthwhile for the City to explore;
  - c) Consider methods to improve code compliance and health and safety among properties with unpermitted ADUs, without triggering displacement or other adverse impacts to neighborhoods;
  - d) Describe & analyze options related to housing policy objectives not yet completed from the 2015 Housing Element (i.e., apartment tenant relocation assistance policy; PDA incentives/policies; and HMF funding policies/priorities);

The purpose of this study is to provide the City with an updated strategy that recognizes and builds on the strategies described in the current Housing Element and 2015-2020 HUD Consolidated Plan, to guide future housing policy to address current and future community needs.

**DELIVERABLES:**

- A. **Draft report** on initial findings, conclusions, and recommended options for implementation. Report would consider cost/benefit of each recommended option, and highlight options projected to have most net positive impact on Sunnyvale's housing market (in terms of affordability, accessibility, quality, urban design, workforce needs, transportation, sustainability, etc.), within available private and/or public investment parameters. Analysis would consider fiscal impacts of policy changes and/or program implementation, potential administrative burden, infringement on private property rights, and/or other potential unintended negative impacts, as well as positive impacts. Report to provide brief background overview of existing housing policy tools and programs being implemented by City.
- B. Implement a **public engagement plan** with multiple channels (in person meetings, online input, newsletters, etc.) for public input for the project team and policymakers to consider. Implement outreach plan and provide meeting notes, summary and analysis of feedback received, how it might influence final strategy.

**Draft Work Plan and Scope of Work for 2017 Housing Strategy**  
Study Issue CDD 17-09

- C. **Final report** with recommended strategy to guide the City for the remainder of the 2015-2023 Housing Element period. Strategy should provide structure for effective use of limited funding and staffing to improve housing conditions for Sunnyvale residents and workers, while avoiding, to the extent possible, negative impacts noted above. Provide projections of implementation costs and/or revenues for recommended programs, and recommend options for program design, administrative structure, and/or policy approaches to minimize implementation costs to the extent possible.



## Goals and Policies

This section of the Housing Element presents the goals and policies the City intends to implement to address Sunnyvale's identified housing needs.

### **Provision of New Housing and Home Buyer Assistance**

**Goal A** Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.

- Policy A.1** Encourage diversity in the type, size, price and tenure of residential development in Sunnyvale, including single-family homes, townhomes, apartments, mixed-use housing, transit-oriented development, and live-work housing.
- Policy A.2** Facilitate the development of affordable housing through regulatory incentives and concessions, and/or financial assistance.
- Policy A.3** Utilize the Below Market Rate (BMR) Housing requirements as a tool to integrate affordable units within market rate developments, and increase the availability of affordable housing throughout the community.
- Policy A.4** Continue to require office, residential, and industrial development to mitigate the demand for affordable housing.
- Policy A.5** Work with Sunnyvale's major employers, educational and health care institutions to facilitate and encourage the development of workforce housing. Promote the City's affordable housing programs with local employers.
- Policy A.6** Provide first time homebuyer assistance to low and moderate income households, with priority to buyers who currently work and/or live in Sunnyvale.
- Policy A.7** Support collaborative partnerships with non-profit organizations, affordable housing builders, and for-profit developers to gain greater access to various sources of affordable housing funds.
- Policy A.8** Encourage developers to use State density bonus incentive when applicable to provide affordable housing units.





## **Housing Conservation and Maintenance**

**Goal B**      **Maintain and enhance the condition and affordability of existing housing in Sunnyvale.**

**Policy B.1**      Encourage property owners to maintain rental and ownership units in sound condition through the City's neighborhood preservation and housing rehabilitation programs.

**Policy B.2**      Provide community outreach and comprehensive neighborhood improvement programs within Sunnyvale's Neighborhood Enhancement areas to improve housing conditions and the overall quality of life.

**Policy B.3**      Strengthen multi-family neighborhoods through partnerships with non-profit housing organizations in the acquisition and rehabilitation of older residential properties and maintenance as long term affordable housing.

**Policy B.4**      Work with property owners, tenants, and non-profit purchasers to facilitate the preservation of publicly-assisted rental housing to maintain affordability to lower income households.

**Policy B.5**      Support the provision of rental assistance by the Santa Clara County Housing Authority to lower income households.

**Policy B.6**      Preserve Sunnyvale's mobile home parks as an affordable housing option. Maintain at least 400 acres of mobile home park zoning.

**Policy B.7**      Regulate the conversion of rental apartments to condominium ownership, and only permit conversions when the citywide vacancy rate for rental units warrants, and a benefit to the overall housing supply can be shown.



## **Removal of Governmental Constraints**

**Goal C** Minimize the impact of governmental constraints on the maintenance, improvement and development of housing.

**Policy C.1** Monitor and revise when appropriate all regulations, ordinances, departmental processing procedures and fees related to the rehabilitation and construction of housing units to assess the impact on housing costs and/or future supply.

**Policy C.2** Maintain provisions for supportive and transitional housing and emergency shelters in the City's Zoning Code.

**Policy C.3** Maintain reduced parking standards for special needs housing and housing in close proximity to public transit.

## **Provision of Adequate Housing Sites**

**Goal D** Provide adequate sites for the development of new housing through appropriate land use and zoning to address the diverse needs of Sunnyvale's residents and workforce.

**Policy D.1** Provide sites for development of housing that responds to diverse community needs in terms of density, tenure type, unit size, accessibility, location and cost.

**Policy D.2** Continue to accommodate new residential development into specific plan areas and areas near transit and employment and activity centers, such as the El Camino Real corridor and Lawrence Station area.

**Policy D.3** Require new development to build to at least 75 percent of the maximum zoning density, unless an exception is granted by the City Council.

**Policy D.4** Assist residential developers in identifying sites through dissemination of the sites inventory.

**Policy D.5** Provide opportunities and incentives for mixed use, multi-family infill, and transit-oriented development in Downtown Sunnyvale as part of the City's overall revitalization strategy for the area.



- Policy D.6** Provide expanded areas for higher density housing through the conversion of underutilized industrial areas to residential use, if the sites are consistent with General Plan standards for residential uses (i.e., no health hazards exist).
- Policy D.7** Take advantage of existing infrastructure and public improvements to provide additional housing by allowing accessory living units within residential neighborhoods.

### **Equal Housing Opportunities and Special Needs**

**Goal E** Promote equal housing opportunities for all residents, including Sunnyvale's special needs populations, so that residents can reside in the housing of their choice.

- Policy E.1** Support the provision of fair housing services and tenant/landlord mediation to residents.
- Policy E.2** Implement City ordinances regarding prohibition of discrimination in housing.
- Policy E.3** Continue to address the special housing needs of seniors through provision of affordable housing, and housing-related services, such as home rehabilitation programs, paint grants, and maintenance, shared housing match, and housing counseling (i.e. reverse mortgage counseling, etc.) and various referral services.
- Policy E.4** Continue to address the special needs of persons with disabilities through provision of supportive housing, accessibility grants, and development of procedures for reasonable accommodation.
- Policy E.5** Encourage the provision and distribution of residential care facilities throughout the community.
- Policy E.6** Participate in the County Collaborative on Affordable Housing and Homeless Issues to support its efforts to prevent and end homelessness. Facilitate and sponsor the provision of permanent supportive housing for homeless people. Support local service providers that offer facilities and support services to homeless individuals and families, and persons at risk of homelessness.
- Policy E.7** Encourage developers to design and develop housing projects that accommodate the needs of large families, single-parent



households, and/or families with children, such as including units with three or more bedrooms, on-site child care facilities, and/or family-friendly open space and common areas.

## **Neighborhood Quality**

**Goal F**      **Maintain sustainable neighborhoods with quality housing, infrastructure and open space that fosters neighborhood character and the health of residents.**

- Policy F.1**      Continue efforts to balance the need for additional housing with other community values, including preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.
- Policy F.2**      Promote neighborhood vitality by providing adequate community facilities, infrastructure, landscaping and open space, parking, and public health and safety within new and existing neighborhoods.
- Policy F.3**      Continue a high quality of maintenance for public streets, rights-of-way, and recreational areas, and provide safe and accessible pedestrian, bike, and transit linkages (accessibility) between jobs, residences, transportation hubs, and goods and services.
- Policy F.4**      Continue to implement a citizen-oriented, proactive education program regarding neighborhood preservation. Encourage resident involvement in identifying and addressing neighborhood needs in partnership with the City.
- Policy F.5**      Promote the preservation of historically and architecturally significant buildings and neighborhoods through land use, design and housing policies.
- Policy F.6**      Require the use of sustainable and green building design in new and existing housing.
- Policy F.7**      Continue to permit and encourage a mix of residential, neighborhood-serving retail, and job-producing land uses, as long as there is neighborhood compatibility and no unavoidable environmental impacts.



# City of Sunnyvale

## Agenda Item

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18-0134

Agenda Date: 2/28/2018

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### **INFORMATION ONLY**

RTC 17-1208: Review of 2017 Housing Legislation



# City of Sunnyvale

## Agenda Item

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17-1208

Agenda Date: 2/6/2018

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### REPORT TO COUNCIL

#### **SUBJECT**

Review of 2017 Housing Legislation (Information Only)

#### **BACKGROUND**

This report provides a summary and analysis of the new housing laws enacted by the State of California in 2017, commonly referred to as the “2017 Housing Package,” which took effect on January 1, 2018. Staff analyzed these laws (which included a review of the analysis of various outside groups and legal firms) to assess the likely positive or negative near term impacts of these laws on the City. Two summaries of this legislation, one provided by the California Department of Housing and Community Development Department (HCD) and the other by the League of California Cities, are attached to this report as Attachments 1 and 2, respectively.

#### **EXISTING POLICY**

##### **Council Policy 7.3.1:**

**Goal 7.3B** Assure that City policy is established, documented and enacted according to established procedures and legal principles.

**Policy 7.3B.3** Prepare and update ordinances to reflect current community issues and concerns in compliance with state and federal laws.

#### **DISCUSSION**

The fifteen bills comprising the Housing Package (plus several other housing bills not officially included in the Housing Package but also enacted in 2017) were developed by the California Legislature to address the statewide housing crisis. The statewide housing crisis is considered by most of the bill authors and sponsors as a matter of both inadequate supply and significant affordability concerns. Most of these bills can be grouped into one or more of the following four categories:

- **Funding Measures:** SB 2, SB 3, and to a limited extent AB 73, AB 571;
- **Accountability, Reporting, and Enforcement Measures:** SB 166, SB 167, AB 72, AB 678, AB 879, AB 1397, AB 1515; AB 1568
- **Streamlining Measures:** SB 35, SB 229, SB 540, AB 73, AB 494
- **Miscellaneous:** AB 571, AB 1193, AB 1505, AB 1521

Potentially significant impacts of the new legislation in each of the above areas on City business or operations are noted below. A table showing which bill has impacts in each category(ies) is provided in Attachment 3. That table also indicates whether the bill creates new mandatory requirements that

cities and counties must meet, or new opportunities that jurisdictions may opt to pursue. Of those bills that create new mandatory requirements for local governments, the table also indicates whether those requirements apply to charter cities, such as Sunnyvale, and charter counties, or only to “general law” jurisdictions. Please see Attachment 1 for more detail on each bill, and Attachment 2 for analysis of likely impacts to cities and counties of the new laws.

### **Funding Measures**

**SB 2** is estimated to generate approximately \$250 million per year for the State from new real estate recording fees. These funds will be available for local planning and affordable housing purposes. The bill requires the State to distribute half of the revenues received in 2018 to cities and counties for planning activities intended to create additional capacity for housing, streamline development review, or otherwise support production of affordable housing. The remainder of the 2018 funds will be available to the State for affordable housing and homelessness programs. Starting in 2019 and beyond, the State must distribute 70% of these annual revenues to local governments for affordable housing development and related uses, such as rental and home buyer assistance. See Attachment 2 for more detail about the types of eligible uses of these funds.

What SB 2 Means for Sunnyvale: Based on the estimated amount of SB 2 revenue for 2018, and assuming the 50% set-aside for local governments is distributed evenly among the State’s 540 cities and counties, a very rough estimate of how much the City might be eligible for is approximately \$230,000. It is not clear yet how the State will divide up this amount among the jurisdictions, what the application process will be, or what kinds of strings may be attached to this funding, such as a matching requirement, for example. Some preliminary information about the expected application process is provided in Attachment 2, from the League of Cities; however, HCD may create a more robust application process in the coming months. Staff is monitoring this potential opportunity.

The City has previously completed or is currently working on many planning efforts similar to the type of work eligible for this funding, such as: updating local land use plans, completing plan-level environmental review, streamlining development review processes, developing inclusionary housing ordinances, and/or conducting nexus studies needed to justify and enact housing impact fees. Many jurisdictions around the state have not undertaken such efforts previously, or need to update older plans and programs, and may not have had sufficient funds to do such work earlier. The City is currently undertaking several specific plan updates with a goal of potentially increasing housing capacity in certain areas. Those studies, for the most part, are already funded, so it is not clear whether any additional plan updates will be pursued in 2018 for which this funding could be sought.

**SB 3** authorizes an affordable housing bond measure to be placed on the State ballot in 2018. If approved, \$4 billion in state bonds will be issued, of which \$3 billion will be for existing State affordable housing programs, and \$1 billion will be for veterans’ housing programs. If the bond measure passes, some of this funding may be available for future affordable housing projects within the City, primarily new construction and/or rehabilitation of rental housing for lower-income households. Usually the housing developer, rather than the city, is eligible to apply for such funds, most of which are provided as loans against the property, but the City may need to submit documents in support of that application. These funds help the developers further leverage any local housing funds the City contributes to such projects, in addition to leverage provided by federal tax credits or other non-City sources.

What SB 3 Means for Sunnyvale: The ultimate impact on the City as a whole would be potentially more affordable rental units developed in the City at a lower per-unit City cost. The City has previously taken advantage of State housing programs funded by prior State bond measures, so this would not be an entirely new process. For example, both the Fair Oaks Plaza and Onizuka Crossing projects applied for and were awarded Infill Infrastructure Grants (IIG) by HCD, which were funded by an earlier bond measure, Proposition 1C. In both cases the City supported the housing developer's application by providing technical assistance through the Community Development Department, and adopting Council resolutions in support of those funding applications, when required by the program.

### **Accountability, Reporting and Enforcement Measures**

#### **AB 678, SB 167 and AB 1515**

These bills make changes to an existing law known as the Housing Accountability Act (HAA), also known as the "Anti-Nimby Act." The changes make it more difficult for all jurisdictions, including charter cities, to deny proposed housing developments, or to reduce the density or size of proposed housing projects. It increases the penalties for jurisdictions that fail to approve housing projects that conform to all "objective" general plan and zoning standards. AB 1515 requires the courts to give less deference to a local governments' determinations of a proposed development's consistency with local zoning or land use plans. Although cities and counties may not deny or reduce the density of a project once it is deemed consistent with objective development standards, they may still require projects to go through a design review process.

What AB 678, SB 167 and AB 1515 Mean for Sunnyvale: The City's development review processes and practices are for the most part largely consistent with these requirements; therefore, staff does not expect these new requirements to have significant impacts in Sunnyvale (some jurisdictions around the State may need to update their development standards to meet these requirements). However, staff is currently examining the City's codes and procedures to see if any amendments are needed to comply with these laws. If so, staff will bring forward any proposed amendments requiring Council action. See Attachments 1 and 2 for more detail on these bills.

### **Changes to Housing Element Laws**

**AB 1397** adds various technical requirements for housing elements, many of which were already implemented to some degree in practice by State staff (HCD), but may not have been specified clearly enough in State law. For example, the need to thoroughly analyze whether sites identified in the housing element had realistic capacity for, and/or likelihood of redevelopment or additional housing units being added to those sites during the coming Regional Housing Needs Allocation (RHNA) period, was previously communicated to local staff as a requirement by HCD staff, but was not specified in State statutes. The City's Housing Element already complies with these requirements. The high level of redevelopment of existing properties over the past decade or so, primarily due to privately initiated projects, provides substantial evidence that the City's sites inventory has been based on a realistic assessment of redevelopment potential of sites with existing uses.

What AB 1397 Means for Sunnyvale: Staff does not expect this bill to have immediate impacts on the City; however, it may have some impacts the next time the Housing Element is updated (2023). For example, HCD staff reviewing the City's next draft Housing Element for



compliance (in 2023) may question or reject a site listed on the site's inventory if HCD does not find that the site has a "realistic potential for redevelopment" within the next housing element cycle. While similar concerns were expressed by HCD upon prior reviews of the City's draft housing elements, now HCD staff has the language in these new State statutes to clarify and support this requirement. In prior cycles staff provided sufficient evidence of the City's track record with redevelopment of other sites to alleviate HCD's concerns and ultimately obtain HCD certification (without a requirement to remove those sites from the inventory).

**AB 879 and AB 72** further clarify the types of analysis of "local constraints on housing development" to be included when housing elements are updated. AB 72 authorizes HCD to review city and county actions, such as denial of a housing project, or rezoning or downzoning a housing site, for compliance with the jurisdiction's housing element. It authorizes HCD to issue a notice of non-compliance if HCD deems that action to conflict with the jurisdiction's housing element or otherwise violate housing element law. Previously HCD was not able to take such compliance actions directly, rather private litigation was required to enforce these requirements.

What AB 879 and AB 72 Mean for Sunnyvale: Historically Sunnyvale has not had a track record of litigation or significant compliance problems of this nature, so staff does not anticipate any immediate impacts in the near term. Nonetheless, this bill gives all jurisdictions more reason to proceed with caution if contemplating any action that might result in a non-compliance notice from HCD.

**SB 166** strengthens existing provisions in housing element law (known as "no net loss"), which are intended to prevent local governments from down-zoning residential areas and/or approving developments at a lower density or size than contemplated in their State-approved housing elements. A new aspect of the no net loss concept introduced in this Bill is analysis of the actual income level of the units approved, not only the number of units or density of the project, yet the City cannot deny a proposed development because it may not match the income level estimated in the sites inventory. It is not clear yet how this analysis will be implemented or enforced by HCD. It is unclear how feasible it will be for general law jurisdictions to comply fully with this law as there is a finite amount of land available in most jurisdictions (without annexation of other land). Because of property rights laws, cities cannot force developers or property owners to develop and use their land only for the residential purposes, and the particular income levels and unit counts, indicated in the housing element sites inventory. Staff anticipates that HCD will develop clarifying guidance in this area within the coming year.

What SB 166 Means for Sunnyvale: This bill does not apply to charter cities such as Sunnyvale, so no immediate impacts are anticipated on Sunnyvale, but it could be extended to charter cities through future legislation.

**SB 35 and AB 879** require enhanced annual reporting requirements for cities and counties which must provide new types of data in their annual reports to HCD on their housing element compliance ("APRs"), primarily related to the number of housing units proposed compared to the number approved by the City through Planning approvals (entitlements). AB 879 also requires new types of data to be included in APRs, and directs HCD to evaluate the reasonableness of local government impact fees imposed on housing developments.

What SB 35 and AB 879 Mean for Sunnyvale: Sunnyvale has been submitting the APRs for

many years and will continue to do so; however, the new types of data required by these bills are quite detailed and will increase the level of effort, primarily in terms of staff time, that the City must commit annually to the APR process. Staff is optimistic that the new permitting software the City is pursuing (a.k.a. the new SunGIS) will allow some of this data gathering and reporting effort to be automated in future years and thus lessen the amount of staff time and expense required to comply with these laws. Regarding HCD's forthcoming analysis of local fees on housing development, it is unclear at this time what the outcome of that analysis will be; however, most local government interest groups, such as the League of California Cities and similar entities, are concerned about this and will be following the fee issue closely. The outcome may require cities to actively participate in this analysis by sharing information about how such fees are determined, what they are used for, and how local public services and facilities would be impacted if these revenues were reduced or eliminated.

### **Streamlining Measures**

**SB 35** was primarily initiated as the Legislature's alternative to the housing development streamlining measure proposed by Governor Brown in 2016, which failed to pass the Legislature. This bill requires cities and counties in most cases to provide a by-right (ministerial) approval process for multi-family rental housing projects with a certain percentage of affordable units, if the developer agrees to pay prevailing wages to the construction workers that build the project (See Attachments 1 and 2 for more detail). Sunnyvale added a by-right process for rental projects of 25 or fewer units as an implementation objective included in the 2009-2014 Housing Element update, at the urging of HCD staff reviewing the draft Housing Element at that time. However, SB 35 requires this type of approval process for larger projects as well, therefore some modifications to City approval processes will be required to handle any future SB 35 streamlining applications. This streamlining process must be requested by the developer of the project meeting the affordability and wage-related criteria noted above, so if no developers request it, it will not have any immediate effects. Many market-rate developers hesitate to voluntarily provide affordable units in their projects, and/or to pay prevailing wages, because those commitments can have significant impacts either on total anticipated financial gain or feasibility of the project, and/or on construction costs.

The proposed SB 35 streamlined project must be consistent with objective zoning and design review standards and not exceed the maximum density allowed within the general plan land use designation. Objective standards are those that are "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 prior to submittal."

What SB 35 Means for Sunnyvale: It is unclear how many market-rate residential developers will pursue this option in Sunnyvale, which is known for its already streamlined, fair, and relatively predictable process, which might not warrant the developer's costs to qualify a project for SB 35 streamlining. Most subsidized affordable housing projects are required to pay prevailing wages as a condition of their financing, and are 100% affordable already, so staff expects that most projects requesting SB 35 streamlining in Sunnyvale, if any, will likely be subsidized affordable projects.

The City will likely need to adopt a few minor zoning amendments to comply with SB 35. These changes may reduce the City's ability to require use permits or other discretionary approvals for certain types of projects pursuing SB 35 streamlining. SB 35 could influence the

size and location of multi-family rental project applications in the City. Large projects requiring rezoning or design exceptions will still have to go through the City's regular review process. However, developers of SB 35-eligible projects in multi-family, commercial, or mixed use zoning districts that allow housing as an ancillary use may choose to pursue the streamlined review. In this situation, existing standards, such as floor area ratio, height, setback, etc. could still be enforced.

**SB 540 and AB 73**, were introduced by other authors around the same time as SB 35 to address the same streamlining objectives, but using a voluntary, rather than mandatory approach. SB 540 provides options largely modeled after provisions already available under State law. AB 73 includes more State involvement in this type of effort, including some funding but also State oversight. Please see Attachment 2 for more detail.

What SB 540 and AB 73 Mean for Sunnyvale: Sunnyvale and many other cities have utilized streamlining provisions for many years, such as specific or precise plans, overlay districts, and tiered environmental review. Tiered environmental review is conducting environmental review (e.g., EIRs) at the plan level to streamline the amount of review needed for individual development proposals which are consistent with those plans. Given the significant requirements involved in pursuing either of these new programs, they do not appear to provide any advantages compared to existing efforts the City is already pursuing or has recently completed, such as updating general plan elements and specific or precise plans.

### **Miscellaneous**

Several of the bills in this area, such as **AB 571** and **AB 1521**, make changes that address somewhat technical issues that may have previously hindered certain types of affordable housing projects or efforts, such as farmworker housing and preservation of existing subsidized housing.

What AB 571 and AB 1521 Mean for Sunnyvale: Regarding AB 571, staff does not anticipate any proposed farmworker housing in the City, so that is not likely to impact the City. AB 1521 could be somewhat helpful in any future City efforts to preserve any subsidized affordable housing properties with expiring affordability restrictions. The City does not have any properties in that situation on the immediate horizon, but that may be an issue to address in the next housing element update.

**AB 494 and SB 229** are considered Accessory Dwelling Unit (ADU) "clean-up" bills. They make minor adjustments to the ADU laws adopted last year (2016), which raised questions of interpretation due to unclear or ambiguous language. The 2017 ADU clean-up bills require local governments to amend their ADU codes to comply with current State law.

What AB 494 and SB 229 Mean for Sunnyvale: The City has already initiated amendments to its ADU codes to comply with the ADU clean-up bills. The draft ordinance to enact these changes was approved by Planning Commission on January 8 and will be considered by City Council on February 6.

**AB 1505** is called the "Palmer Fix." This bill overrides the 2009 Palmer court decision that struck down local inclusionary rental ordinances. The City had such an ordinance prior to 2009, adopted originally in 1980 and amended in 2003, which required 15 percent of the units in new multi-family

rental projects to be affordable to lower-income households ("BMR rental units"). AB 1505 allows cities and counties to once again require developers to provide affordable units as part of any rental development. Any ordinances adopted after passage of the bill must include alternate means of compliance, such as in-lieu fees, land dedication, or off-site development of units, and if they require more than 15 percent of the units to be affordable to lower-income households, HCD may review the ordinance and require a feasibility study (nexus study) to justify the requirement.

What AB 1505 Means for Sunnyvale: While the City's prior rental inclusionary requirements were largely consistent with AB 1505, they did not specifically include several of the alternate compliance options now required, and there were minor incompatibilities with State density bonus law related to calculating the rent limits applicable to the low-income units. Staff will prepare a new rental inclusionary ordinance compliant with AB 1505 and current State density bonus law as part of the 2017 Housing Strategy study issue currently underway. This objective is prioritized to be the first deliverable in the work plan for that study, and will be brought for Council's consideration before the rest of the Strategy is complete. If that ordinance is enacted, it will help the City meet a portion of its RHNA goals for lower-income units, as was the case until the Palmer case put an end to the prior BMR rental program. In the meantime, the City's Rental Impact Fee (RIF) program will continue to apply to any proposed new rental projects. The RIF program assesses a fee based on the square footage of the new rental development, but allows developers the option of providing affordable units in their project instead of paying this fee. Since the RIF program has been in effect, most developers have opted to provide the affordable units rather than pay the fee. In effect the RIF program operates similarly in its end result to an inclusionary rental requirement of the type enabled by AB 1505, without violating the case law created by the Palmer decision. Therefore, the City will continue to receive affordable housing contributions in some form or another by any rental projects that may be proposed in the intervening several months between now and when a new inclusionary rental ordinance can be enacted.

## **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

Prepared by: Shila Behzadiaria, Assistant Planner

Reviewed by: Suzanne Isé, Housing Officer

Reviewed by: Trudi Ryan, Director, Community Development Department

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

## **ATTACHMENTS**

1. HCD Summary
2. League of California Cities Summary
3. Table of New Housing Laws



# California's 2017 Legislative Housing Package Major Components<sup>1</sup>



## Provides critical funding for new affordable homes

- Imposes a \$75 fee on recording of real estate documents (excluding sales) for investment in affordable-home development.
- Places a \$4 billion general obligation bond on the November 2018 general election ballot for veterans and affordable housing programs.

## Accelerates development to increase housing supply

- Creates a streamlined approval process for certain developments in cities/counties that have not yet met their legally mandated housing targets.
- Authorizes HCD to provide one-time planning funds and technical assistance to cities/counties to help them streamline housing production.
- Authorizes financial incentives for cities/counties that streamline development of housing in specific areas of their jurisdiction.

## Holds cities/counties accountable for addressing housing needs in their communities

- Authorizes increased enforcement of state housing-planning ("housing element") law and enables HCD to refer violations to the Attorney General.
- Strengthens housing-planning law to ensure appropriate land is available for new development and increases transparency on local government progress in meeting legally mandated housing targets.
- Creates a \$10,000 per unit penalty on cities/counties that deny (for unjustified reasons) approval of new homes affordable to low or moderate income Californians.

## Creates opportunities for new affordable homes and preserves existing affordable homes

- Makes California's "farmworker housing tax credit" more attractive to developers.
- Creates additional tracking and enforcement responsibilities to ensure compliance with state housing-preservation laws.
- Allows the legislative body of a city/county the option to require a certain amount of low-income housing in any new residential rental developments.

<sup>1</sup> In order of reference: SB 2 (Atkins), SB 3 (Beall), SB 35 (Wiener), AB 73 (Chiu), SB 540 (Roth), AB 72 (Santiago), AB 1397 (Low), AB 879 (Grayson), AB 166 (Skinner), AB 678 (Bocanegra)/SB 167 (Skinner) AB 1515 (Daly), AB 571 (E. Garcia), AB 1521 (Bloom), and AB 1505 (Bloom)



# CALIFORNIA'S 2017 LEGISLATIVE HOUSING PACKAGE

## Streamline Housing Development

Planning & Zoning	<p><b>SB 35 (Wiener) Streamline Approval Process</b></p> <p><i>Opt-in program for developers</i></p> <p>Creates a streamlined approval process for developments in localities that have not yet met their housing targets, provided that the development is on an infill site and complies with existing residential and mixed use zoning.</p> <p>Participating developments must provide at least 10 percent of units for lower-income families. All projects over 10 units must be prevailing wage and larger projects must provide skilled and trained labor.</p>
Planning & Zoning	<p><b>AB 73 (Chiu) Streamline and Incentivize Housing Production</b></p> <p><i>Opt-in program for jurisdictions and developers</i></p> <p>Provides state financial incentives to cities and counties that create a zoning overlay district with streamlined zoning. Development projects must use prevailing wage and include a minimum amount of affordable housing.</p>
Planning & Zoning	<p><b>SB 540 (Roth) Workforce Housing Opportunity Zones</b></p> <p><i>Opt-in program for jurisdictions</i></p> <p>Authorizes the state to provide planning funds to a city or county to adopt a specific housing development plan that minimizes project level environmental review. Requires at least 50 percent of total housing units within that plan to be affordable to persons or families, at or below moderate income, with at least 10 percent of total units affordable for lower income households. Development projects must use prevailing wage.</p>

## Accountability and Enforcement

Amends Housing Accountability Act	<p><b>AB 678 (Bocanegra)/SB 167 (Skinner) Strengthen the Housing Accountability Act</b></p> <p>Strengthens the Housing Accountability Act by increasing the documentation necessary and the standard of proof required for a local agency to legally defend its denial of low and moderate-income housing development projects, and requires courts to impose a fine of \$10,000 or more per unit on local agencies that fail to legally defend their rejection of an affordable housing development project.</p>
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<b>Accountability and Enforcement (Continued)</b>	
Amends Housing Accountability Act	<p><b>AB 1515 (Daly) Reasonable Person Standard</b></p> <p>States that a housing development conforms with local land use requirements if there is substantial evidence that would allow a reasonable person to reach that conclusion.</p>
Amends Housing Element Law	<p><b>AB 72 (Santiago) Enforce Housing Element Law</b></p> <p>Authorizes HCD to find a jurisdiction out of compliance with state housing law at any time (instead of the current eight-year time period), and refer any violations of state housing law to the Attorney General if it determines the action is inconsistent with the locality's adopted housing element.</p>
Amends Housing Element Law	<p><b>AB 1397 (Low) Adequate Housing Element Sites</b></p> <p>Requires cities to zone more appropriately for their share of regional housing needs and in certain circumstances require by-right<sup>1</sup> development on identified sites. Requires stronger justification when non-vacant sites are used to meet housing needs, particularly for lower income housing.</p>
Amends Existing Housing Law	<p><b>SB 166 (Skinner) No Net Loss</b></p> <p>Requires a city or county to identify additional low-income housing sites in their housing element when market-rate housing is developed on a site currently identified for low-income housing.</p>
Amends Existing Reporting Requirements	<p><b>AB 879 (Grayson) and Related Reporting Bills</b></p> <p>Make various updates to housing element and annual report requirements to provide data on local implementation including number of project application and approvals, processing times, and approval processes. Charter cities would no longer be exempt from housing reporting. Requires HCD to deliver a report to the Legislature on how local fees impact the cost of housing development.</p>

<sup>1</sup> Current housing law defines by-right as local government review of a project may not require a conditional use permit or other discretionary action that would constitute a "project" under the California Environmental Quality Act

<b>Create and Preserve Affordable Housing</b>	
Ongoing Source	<p><b>SB 2 (Atkins) Building Jobs and Homes Act</b></p> <p>Imposes a fee on recording of real estate documents excluding sales for the purposes of funding affordable housing. Provides that first year proceeds will be split evenly between local planning grants and HCD's programs that address homelessness. Thereafter, 70 percent of the proceeds will be allocated to local governments in either an over-the-counter or competitive process. Fifteen percent will be allocated to HCD, ten percent to assist the development of farmworker housing and five percent to administer a program to incentivize the permitting of affordable housing. Fifteen percent will be allocated to CalHFA to assist mixed-income multifamily developments.</p>
Affordable Housing Bond	<p><b>SB 3 (Beall) Veterans and Affordable Housing Bond Act</b></p> <p>Places a \$4 billion general obligation bond on the November 2018 general election ballot. Allocates \$3 billion in bond proceeds among programs that assist affordable multifamily developments, housing for farmworkers, transit-oriented development, infrastructure for infill development, and homeownership. Also funds matching grants for Local Housing Trust Funds and homeownership programs. Provides \$1 billion in bond proceeds to CalVet for home and farm purchase assistance for veterans.</p>
Land Use: Zoning Regulations	<p><b>AB 1505 (Bloom) Inclusionary Ordinances</b></p> <p>Authorizes the legislative body of a city or county to require a certain amount of low-income housing on-site or off-site as a condition of the development of residential rental units.</p>
Amends Preservation Noticing law	<p><b>AB 1521 (Bloom) Preserve the Existing Affordable Housing Stock</b></p> <p>Requires the seller of a subsidized housing development to accept a bonafide offer to purchase from a qualified purchaser, if specified requirements are met. Gives HCD additional tracking and enforcement responsibilities to ensure compliance.</p>
Amends Farmworker Housing and Office of Migrant Services Programs	<p><b>AB 571 (E. Garcia) Low-Income Housing Credits for Farmworkers</b></p> <p>Makes modifications to the state's farmworker housing tax credit to increase use. Authorizes HCD to advance funds to operators of migrant housing centers at the beginning of each season to allow them to get up-and-running. Extends the period of time that migrant housing centers may be occupied up to 275 days.</p>



# The 2017 Housing Package: What Cities Need to Know

Webinar  
Wednesday, December 6, 2017

# Presenters

**Jason Rhine**

Legislative Representative, League of California Cities®

**Alison Leary**

Deputy General Counsel, League of California Cities®

# How to Ask a Question

- ✓ All phone lines have been muted.
- ✓ For questions - use the Q&A window to the right side of your screen. Please enter your name, title and city.



# Barriers to Affordable Housing

- ✓ Inadequate Funding
  - Tax credits
  - State and federal funding
  - Local funding
- ✓ Community Resistance
  - NIMBY
- ✓ Local Planning Process
  - Zoning/Density
  - CEQA
  - Project approvals/permitting

# Barriers to Affordable Housing

## ✓ State Policies

- GHG reduction goals – infill projects
- Energy efficiency standards
- Building codes

## ✓ Market Conditions

- Down market/booming market
- Lack of developer interest
- High interest rates
- Difficulty getting financing – Builder and buyer

# Goals of the Legislature in 2017

More than 130 housing-related bills introduced to:

- ✓ Strengthen housing element requirement to identify “adequate sites” for RHNA.
- ✓ Connect requirement to identify “adequate sites” to approval of housing development on those sites.
- ✓ Monitor housing element implementation.
- ✓ Maximize Housing Accountability Act effectiveness.
- ✓ Authorize inclusionary rental housing ordinance.
- ✓ Provide state funding for planning and housing production.

# The Housing Package

- ✓ 15 bills comprised the “Housing Package” signed by the Governor.
- ✓ Three broad categories of bills:
  - Local Accountability
  - Streamlining
  - Funding

# 2017 Housing Bills

## Local Accountability Bills

- ✓ Housing Accountability Act (SB 167/AB 678/AB 1515)
- ✓ Housing Element
  - New Content (AB 879)
  - Site Inventory Changes (AB 1397)
  - New Authority for HCD (AB 72)
- ✓ Annual Reports (AB 879/SB 35/SB 540)
- ✓ No Net Loss (SB 166)



# Housing Accountability Act

- ✓ Restricts cities' ability to deny, reduce the density of, or make infeasible housing developments, and requires cities to justify these actions.
- ✓ Applies to all housing development projects (affordable *and* market-rate) and emergency shelters:
  - Residences only;
  - Transitional and Supportive housing; and
  - Mixed use projects with **at least 2/3 of the square footage designated for residential use.**

# Housing Accountability Act

- ✓ If a housing development complies with “objective” general plan, zoning, and subdivision standards, city can only reduce density or deny if it would cause a “specific adverse impact” to public health & safety that can’t be mitigated.
- ✓ “Lower density” includes imposing conditions “that have the same effect or impact on the ability of the project to provide housing.”

# Housing Accountability Act

- ✓ Additional protections for affordable projects:
  - Emergency shelters;
  - 20% low income (up to 80% of median); or
  - 100% moderate (up to 120% of median) or middle income (up to 150% of median).
  
- ✓ Must make specific findings to deny, reduce density, or add condition making project infeasible—even if the project does not comply with all “objective” standards.

# Housing Accountability Act

## Change in Processing Housing Applications:

- ✓ If a project does not comply with objective standards, city must provide list of any inconsistencies within 30-60 days of application being deemed complete.
  - If city fails to provide this list, the project is “deemed consistent.”

# Housing Accountability Act

## Changes to Judicial Review:

- ✓ Provides that a project is “deemed consistent” with objective standards if substantial evidence would allow a reasonable person to conclude the project is consistent.
- ✓ Requires the city’s findings to be supported by a “preponderance of evidence.” If the city’s findings not supported by preponderance of the evidence, court must issue order compelling compliance within 60 days. If city denied project in bad faith, court may order approval.
- ✓ Imposes mandatory fines (\$10,000/unit) on cities that fail to comply with a judge’s order within 60 days.
- ✓ Mandates enhanced fines (x5) if a city acts in bad faith.

# Housing Element

## Overview:

- ✓ Planning and Zoning law requires each city to include in its general plan a housing element for the preservation, improvement, and development of housing.
- ✓ HCD reviews all housing elements and determines whether each housing element and amendment substantially complies with state housing element law.
- ✓ Cities are in the middle of their housing element cycles, with most housing elements being revised between 2021 and 2023.

# Housing Element

## New Content:

- ✓ Governmental constraints analysis must include local ordinances that “directly impact the cost and supply of residential development.
- ✓ Nongovernmental constraints analysis must include requests to develop housing at densities below those anticipated in site inventory; length of time between receiving approval and submittal of building permit application.
- ✓ Program to address nongovernmental constraints.

# Housing Element

## New Site Inventory Requirements:

- ✓ Sufficient water, sewer, and dry utilities or be part of a mandatory program to provide such utilities.
- ✓ “Available” for residential development with “realistic and demonstrated” potential for redevelopment.
- ✓ Lower income sites must be between ½ acre and 10 acres in size.
- ✓ Continuing identification of nonvacant sites and certain vacant sites that have not been approved limited.
- ✓ Restrictions on using nonvacant sites.



# Housing Element

## New Authority for the Department of Housing and Community Development (HCD):

- ✓ Authorizes HCD to review any action or inaction by a city or county that it determines is inconsistent with an adopted housing element.
- ✓ Requires HCD to issue written findings regarding failure to comply. City response within 30 days.
- ✓ HCD's determination of failure to comply allows HCD to revoke original housing element compliance finding.
- ✓ HCD may notify AG that city is in violation of the Housing Element Law, HAA, no net loss, density bonus law, or anti-discrimination provisions.

# No Net Loss

- ✓ Regional Housing Need Allocation (RHNA).
  - Typically: 40% low and very low; 20% moderate; 40% above moderate.

## Model City

Lower Income (Very Low and Low)	Moderate Income	Above Moderate Income	TOTAL RHNA
400 units	200 units	400 units	1,000 units

# No Net Loss

- ✓ Must designate specific sites that can “accommodate” the RHNA at each income level during the planning period (65583.2).
- ✓ Sites “accommodating” lower income housing usually must be at “default densities” of 10 – 30 units per acre.

APN	Zone	DU/A	Acres	Units	Use	Income Category
041-0042-002	R-3	20-30 du/ac	2.0	40	Vacant	Lower
037-0400-027	R-2	10-20 du/ac	0.75	7	Duplex	Moderate
038-0100-040	R-1	5-10 du/ac	4.5	22	Vacant	Above Moderate
039-1100-039	CMU	20 du/ac	1.5	25	Parking	Moderate

# No Net Loss

- ✓ Only applies to general law cities.
- ✓ The no net loss provision applies if:
  - A city downzones a site shown in the housing element to permit fewer units than shown in the site inventory;
  - A city approves a project on a site shown in the housing element with fewer units than shown in the site inventory; or
  - A development is approved on a site with fewer units at the income level shown in the site inventory.
- ✓ If any of the above occur, the city must find that the reduction is consistent with the city's general plan and:
  - Find that other sites in the housing element are adequate to meet the RHNA at each income level; or
  - Identify and “make available” within 180 days other sites, so there is “no net loss” in capacity at each income level.

# No Net Loss

- ✓ Ways to “identify and make available”:
  - City approved more units on some site than shown in inventory or has other units at that income category; or
  - Other sites NOT in Element can make up difference; or
  - Rezoning another site to maintain the inventory.
- ✓ City cannot deny projects because they result in need for the city to identify or rezone additional sites.
- ✓ No housing element amendment seems to be required.
- ✓ Confusing CEQA language.

# Annual Reports

By April 1 of each year, general law **and charter** cities must send an annual report to their respective city councils, the Office of Planning and Research (OPR), and HCD regarding implementation of their general plans.

- ✓ Includes discussion of progress towards implementing housing element programs to meet RHNA.
- ✓ Failure to submit an annual report in substantial compliance with the new requirements by May 31 of each year may subject the city to a court order requiring completion. If the city fails to comply with the order within 60 days, court may order sanctions.

# Annual Reports

**Table A**

**Annual Building Activity Report Summary - New Construction  
Very Low-, Low-, and Mixed-Income Multifamily Projects**

Housing Development Information						Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions			
1	2	3	4				5	5a	6	7	8
Project Identifier (may be APN No., project name or address)	Unit Category	Tenure R=Renter O=Owner	Affordability by Household Incomes				Total Units per Project	Est. # Infill Units*	Assistance Programs for Each Development	Deed Restricted Units	Note below the number of units determined to be affordable without financial or deed restrictions and attach an explanation how the jurisdiction determined the units were affordable. Refer to instructions.
			Very Low-Income	Low-Income	Moderate-Income	Above Moderate Income			See Instructions	See Instructions	
(9) Total of <b>Moderate and Above Moderate</b> from Table A			0	0			0				
(10) Total by income Table A/A3 ▶ ▶											
(11) Total <b>Extremely Low-Income</b> Units*											

\* Note: These fields are voluntary

# Annual Reports

## New Content Required:

- ✓ Prior year **Applications**
  - Housing development applications received.
  - Units in all applications: approved & disapproved.
- ✓ **Sites** rezoned to accommodate RHNA.
- ✓ **Sites** identified or rezoned for No Net Loss.
- ✓ **Production Report**  
Net new units entitled, permitted, or occupied.
  - For sale or rental.
  - RHNA income category.
  - Assessor Parcel Number.
- ✓ **SB 35 Report**
  - Applications & sites.
  - Units by type & RHNA.



# Annual Reports

## Additional Changes:

- ✓ HCD to publish new reporting forms.
- ✓ HCD will publish reports online.
- ✓ Failure to submit two or more consecutive annual reports triggers SB 35 streamlining.

# 2017 Housing Bills

## Bonus Bill

- ✓ The “Palmer Fix” (AB 1505)

# Inclusionary Zoning

- ✓ Can adopt ordinance that requires rental housing development to include a certain percentage of units affordable to very low, low, or moderate income households.
- ✓ Must provide alternative means of compliance (e.g. in-lieu fees, land dedication, off-site development of units, etc.)

# Inclusionary Zoning

- ✓ HCD may review ordinance adopted after 9/15/2017 if:
  - Requires more than 15% be occupied by low or very low income households; and
  - City failed to either (1) meet at least 75% of its share of above moderate income RHNA; or (2) submit annual report.
- ✓ HCD may request economic feasibility study with evidence that ordinance does not constrain production.

# Possible Next Steps

- ✓ Review housing element inventory to become familiar with distribution of RHNA by income category.
- ✓ Review housing development approvals since the beginning of the housing element period to determine status of “unmet” need by income category on remaining parcels.
- ✓ Review inclusionary requirements to maximize actual production of affordable housing.
- ✓ Develop new information required for Annual General Plan Report (possibly due on April 1, 2018).

# Questions?



# 2017 Housing Bills

## **Streamlining Bills:**

City-Initiated (SB 540, AB 73)  
vs. Developer-Initiated (SB 35)

# City-Initiated Streamlining

## **SB 540: Workforce Housing Opportunity Zone**

- ✓ Streamlines the housing approval process by having cities identify Workforce Housing Opportunity Zones (WHOZ) in areas close to jobs and transit, and perform the planning and CEQA review up front.
- ✓ No project-specific CEQA review if developments meet the standards of the WHOZ.
- ✓ HCD may provide grants or no-interest loans to cities to develop the specific plan and EIR required for the adoption of the WHOZ.
- ✓ League sponsored bill.



# City-Initiated Streamlining

## **SB 540: Creating a WHOZ:**

- ✓ Develop a Specific Plan/EIR. Should include:
  - 100-1,500 housing units (but not more than 50% of your city's RHNA);
  - ID the distribution of major components of public and private infrastructure and essential facilities ( including schools);
  - Uniformly adopted mitigation measures for traffic, water quality, natural resource protection, etc.;
  - Uniformly adopted development policies such as density ranges, parking ordinances, grading ordinances, habitat protection, reduction of GHG emissions;
  - Design review standards; and
  - Source of funding for infrastructure and services.
- ✓ WHOZ & Streamlining good for 5 years

# City-Initiated Streamlining

**SB 540: Developments within the WHOZ must be approved and no CEQA review is required if:**

- ✓ Consistent with adopted SCS/APS;
- ✓ Incorporated Plan's mitigation measures;
- ✓ Incorporated Plan's uniform standards;
- ✓ Affordability requirements (within Zone):
  - 30% affordable to moderate or middle income
  - 15% affordable to lower income
  - 5% affordable to very low income
- ✓ Not more than 50% for above moderate; above moderate must include 10% affordable to lower income unless local ordinance requires higher percentage; and
- ✓ Either “public work” or payment of prevailing wages.

# City-Initiated Streamlining

## **AB 73: Housing Sustainability Districts**

- ✓ Allows a city or county to create a housing sustainability district to complete upfront zoning and environmental review.
- ✓ Requires HCD oversight.
- ✓ Remains in effect for 10 years.
- ✓ Zoning Incentive Payment available if HCD determines that approval of housing is consistent with ordinance (currently unfunded).

# Developer-Initiated Streamlining

## SB 35

- ✓ Seeks to streamline multifamily housing project approvals by eliminating public input, prohibiting CEQA, and removing local discretion.
- ✓ Allows the developer to opt-in to streamlining.

## Does it apply to my city?

- ✓ Applies if city didn't submit annual report for 2 years.
- ✓ Applies to cities where the number of building permits issued is less than city's share of RHNA by income category for that *reporting period* (first ½ or last ½ of RHNA assessment cycle).
- ✓ City remains eligible until HCD's determination for next reporting period.

# Developer-Initiated Streamlining

**SB 35: Does it apply to the site on which a project has been proposed?**

## **Site Exclusions:**

- ✓ Sites in Coastal zone;
- ✓ Prime farmland or farmland of statewide importance;
- ✓ Wetlands;
- ✓ Delineated earthquake zone;
- ✓ FEMA floodplain unless flood plain development permit;
- ✓ FEMA floodway unless no rise certification;
- ✓ Habitat for protected species;
- ✓ Zoned for non-residential use (unless GP allows residential)

# Developer-Initiated Streamlining

## Site Exclusions Continued:

- ✓ Site on which housing occupied by tenants demolished in last ten years;
- ✓ Site with existing rental housing occupied by tenants in last ten years required to be demolished;
- ✓ Site with historical structure required to be demolished for project; and
- ✓ Site is subject to Mobilehome Residency Law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act or the Special Occupancy Act.

# Developer-Initiated Streamlining

## SB 35: Does the project qualify for streamlining?

- ✓ Multifamily housing development on site in which 75% adjoins parcels that are developed with urban uses.
- ✓ Inclusionary requirement:
  - 10% below 80% of AMI if annual report reflects fewer units of above-moderate **approved** than required;
  - 50% below 80% of AMI if annual report reflects fewer units of lower income **issued building permits** than required; or
  - If both, then developer chooses.

# Developer-Initiated Streamlining

## **SB 35: Does the project qualify for streamlining? (Continued)**

- ✓ Consistent with “objective zoning standards and objective design review standards.”
- ✓ “Objective” means: Uniformly verifiable by reference to an external and uniform benchmark or criterion. No personal or subjective judgment.
- ✓ Consistent with housing density if density is compliant with maximum density.
- ✓ Development is a “public work” or construction workers will be paid at least the general prevailing wage rate. Requirement for “skilled and trained workforce.”



# Developer-Initiated Streamlining

## **Project exclusion:**

- ✓ Project involves subdivision of land unless (1) received tax credit financing; or (2) paid prevailing wages and skilled and trained workforce will be used.

# Developer-Initiated Streamlining

## SB 35 applies to the project, now what?

- ✓ Review limited to compliance with objective standards published before submission of development application and broadly applicable.
  - If in conflict with “objective planning standards,” city must provide written documentation within 60 days (if <150 units) or 90 days (if >150 units) of an **application’s submittal**, or the project is deemed to satisfy the standards.
- ✓ City must complete “design review or public oversight” within 90 days (if <150 units) or 180 days (if >150 units) of an **application’s submittal**.
  - No public hearing required.
- ✓ No CEQA review.
- ✓ Limited parking requirements.

# Possible Next Steps

- ✓ Decide whether your city wants to initiate streamlining under SB 540, AB 73, or by creating your own specific plan/overlay zone.
- ✓ Prepare lists of “objective planning standards” to be applied to projects under SB 35 and the HAA. If you already have a list, determine whether new standards should be added.
- ✓ Develop SB 35 eligibility checklist and process for reviewing applications where SB 35 is invoked.
- ✓ For projects utilizing SB 35, SB 540 or AB 73, verify compliance with requirements for payment of prevailing wage or utilizing a “skilled and trained workforce.”

# Questions?



# 2017 Housing Bills

## Funding Bills

- ✓ The Building Homes and Jobs Act (SB 2)
- ✓ Veterans and Affordable Housing Bond Act (SB 3)

# Building Homes and Jobs Act

- ✓ Permanent source of funding.
- ✓ Imposes a \$75 recording fee on specified real estate documents (up to \$225 per transaction per parcel).
- ✓ Projected to generate hundreds of millions of dollars per year for the Building Homes and Jobs Trust Fund for:
  - ✓ Affordable housing;
  - ✓ Supportive housing;
  - ✓ Emergency shelters; and
  - ✓ Transitional housing.
- ✓ 2018 funds– 50% set aside for local plans
- ✓ All other years – 70% =available to locals

# Building Homes and Jobs Act

## Potential uses for 2018 funds:

- ✓ Preparing general plans, community plans, specific plans, sustainable communities strategies, and local coastal programs;
- ✓ CEQA analysis to eliminate need for project-specific review;
- ✓ Local process updates to improve and expedite local planning;
- ✓ Creation of inclusionary housing ordinances;
- ✓ Preparation of fee studies; etc.

# Building Homes and Jobs Act

## How to qualify for 2018 funds:

- ✓ Submit a request for use to HCD, including a description of the proposed use of funds.
- ✓ Include the proposed use of these funds in your funding plan and annual reports.



# Building Homes and Jobs Act

## Potential uses for 2019 funds:

- ✓ Development, acquisition, and preservation of affordable multifamily, residential live-work, and rental housing;
- ✓ Matching funds for housing trust funds;
- ✓ Matching funds for the Low and Moderate Income Housing Asset Fund;
- ✓ Homeless services: rapid rehousing, rental assistance, navigation centers, emergency shelters, transitional housing;
- ✓ Accessibility modifications;
- ✓ Efforts to acquire and rehabilitate foreclosed/vacant homes;
- ✓ Homeownership opportunities (e.g. down payment assistance); etc.

# Building Homes and Jobs Act

## **Local Government Allocations for 2019:**

- ✓ 90% allocated based on the same formula as used for Community Development Block Grants (CDBG), except that funds allocated to non-entitlement areas under the CDBG formula will be distributed by HCD through a competitive grant program.
- ✓ 10% allocated equitably among non-entitlement areas.

# Building Homes and Jobs Act

## How to qualify for 2019 funds:

- ✓ Submit a plan to HCD, describing how you will use the funds in accordance with the authorized uses;
- ✓ Have a compliant housing element and submit a current annual report;
- ✓ Provide ongoing tracking of any allocated funds in your future annual reports;
- ✓ Prioritize investments that increase housing stock affordable to households that are at or below 60% of area median income.

# Veterans and Affordable Housing Bond Act of 2018

- ✓ Authorizes a \$4 billion general obligation bond to fund affordable housing programs and infill infrastructure projects, including:
  - Multifamily housing;
  - CalHome;
  - Joe Serna Farmworker Housing;
  - Local Housing Trust Fund Matching Grant;
  - BEGIN; and
  - TODs.
  
- ✓ November 2018 ballot

# Possible Next Steps

- ✓ Begin discussions of potential uses of the 2018 funds generated by the Building Homes and Jobs Act, and begin lining up consultants to perform the planning activities for which funds are requested.
- ✓ Encourage the passage of the housing bond in November 2018.

# What's Next: 2018 Focus

## Remove Additional Barriers:

- ✓ Funding – Need voter approval for Housing Bond
- ✓ Seek additional funding
  - Federal tax credits
  - ACA 11 (Caballero) California Middle Class Affordable Housing and Homeless Shelter Account – ¼ cent sales tax
- ✓ Empower Local Governments
  - ACA 4 (Aguiar-Curry) Local Government Financing: Affordable Housing and Public Infrastructure: Voter Approval – 55% voter threshold
- ✓ Encourage Cities to Implement Streamlining
  - SB 540 and AB 73 – Update Plans

# Questions?



# Contact Information

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Table of New Housing Laws

Bill No., Author	Category				City Impacts	
	Funding	Account./ Enforcement	Streamlining	Misc.	Mandatory?	Charter Cities?
SB 2 Atkins	X				N	
SB 3 Beall	X				N	
SB 35 Weiner		X	X		Y	Y
SB 166 Skinner		X			Y	N
SB 167 Skinner		X			Y	Y
SB 229 Wieckowski			X		Y	Y
SB 540 Roth			X		N	
AB 72 Santiago, Chiu		X			Y	Y
AB 73 Chiu	X		X		N	
AB 494 Bloom			X	X	Y	Y
AB 571 Garcia	X			X	N	
AB 678 Bocanegra		X			Y	Y
AB 879 Grayson		X			Y	Y
AB 1193 Gloria				X	N	
AB 1397 Low		X			Y	Y
AB 1505 Bloom, Chiu				X	N	
AB 1515 Daly		X			Y	Y
AB 1521 Bloom				X	N	
AB 1568 Bloom		X			N	

**LEGEND**

AB: Assembly Bill

SB: Senate Bill

**Mandatory?**

Y = Cities are required to implement new law;

N = New law offers cities new options/tools for cities, but cities are not required to participate.

**Charter Cities?**

Y = Charter cities/counties must comply with new requirements (as well as general law cities/ counties);

N = Charter cities/counties are exempt from new requirements.

Sunnyvale is a charter city.