LIVERMORE
CALIFORNIA

PLANNING COMMISSION

AGENDA
TUESDAY, SEPTEMBER 16, 2025

PLANNING COMMISSION REGULAR MEETING – 7:00 PM

MEETING PARTICIPATION INFORMATION CAN BE FOUND AT THE END OF THE AGENDA

IN PERSON INFORMATION:
CIVIC CENTER MEETING HALL
CITY COUNCIL CHAMBERS
1016 S. LIVERMORE AVENUE

Yolanda Fintschenko, Chair
Tracy Kronzak, Vice Chair
Jacob M Anderson, Commissioner
Nadine R Horner, Commissioner
Charity L Steele, Commissioner

1. CALL TO ORDER

ROLL CALL

Commissioner Charity Steele
Commissioner Nadine Horner
Commissioner Jacob Anderson
Vice Chairperson Tracy Kronzak
Chairperson Yolanda Fintschenko

PLEDGE OF ALLEGIANCE

2. OPEN FORUM

- In conformance with the Brown Act, no Planning Commission action can occur on items presented during Open Forum.
- To provide public comment, please submit a speaker card. When your name is called, walk to the lectern to address the Planning Commission.
- Comments are limited to a maximum of 3 minutes per person, per item. The Chair may reduce the amount of time based on the number of persons wishing to speak.
- Open Forum will conclude after 30 minutes; however, if there are additional speakers, Open Forum will reconvene after Matters for Consideration.

3. CONSENT CALENDAR

Consent Calendar items are considered routine and are acted upon by the Planning Commission with a single action. Members of the audience wishing to provide public input must submit a speaker card.

4. PROJECT REVIEW

5. PUBLIC HEARINGS

6. MATTERS FOR CONSIDERATION

6.1 Planning Commission Training: 2025 Land Use and Housing Legislation Update by Eric S. Phillips from the law firm of Burke, Williams and Sorenson, LLP.

Recommendation:
Staff recommends the Planning Commission receive the training and ask any clarifying questions.
Staff Report

7. MATTERS INITIATED BY PLANNING COMMISSION AND STAFF

8. SUPPLEMENTAL MATERIALS.

8.1 Supplemental materials received at the meeting.

Recommendation:

These materials were posted online and made available to the public at the same time that they were distributed to the Planning Commission.

6.1 Planning Commission Training: 2025 Land Use and Housing Legislation Update by Eric S. Phillips from the law firm of Burke, Williams and Sorenson, LLP.

Materials Received: PowerPoint Presentation

Staff Report

Attachments:

1. Supplemental Materials

9. ADJOURNMENT

To a regular Planning Commission meeting on Tuesday, October 7, 2025 at 7:00 pm, Civic Center Meeting Hall, City Council Chamber, 1016 S. Livermore Avenue.

10. HOW TO PARTICIPATE IN THE MEETING

You can participate in the meeting in a number of ways:

Open Forum is an opportunity for the public to speak regarding items not listed on the agenda. Speakers are limited to a maximum of 3 minutes per person. To address the Planning Commission you must submit a speaker card to the Planning Commission Liaison prior to the start of that item. Please note that the Planning Commission is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the Planning Commission l may place it on a future agenda or direct staff to work with you and/or report to the Planning Commission on the issue.

Public Hearings - The topic of the hearing is typically summarized by staff, followed by a presentation by the applicant, and then questions from the Planning Commission. The Chair will then open the hearing to the public and offer an opportunity for public comments. Speakers are limited to a maximum of 3 minutes per person. To address the Planning Commission, you must submit a speaker card to the Planning Commission Liaison prior to the start of the presentation of the item.

Other Agenda Items are also open for public input including Consent Calendar or Matters for Consideration items. These comments are also subject to the 3-minute limit.

Special Meetings, Workshops - The public will have the opportunity to address the Planning Commission regarding the item that is the subject of the special meeting or workshop. Public comments are limited to a maximum of 3 minutes per person.

Submission of Comments Prior to the Meeting:

Email Comments may be submitted by the public to the Planning Commission Liaison (planning@LivermoreCA.gov). Items received no later than 12:00 pm on the day of the meeting will be provided to the Commission and available on the City website prior to the meeting. These items will NOT be read into the record.

eComments may be submitted by the public using the eComment link here. Comments may be up to 1000 characters in length and will be accepted up until 6:00 pm the day of the meeting. These items will NOT be read into the record and are viewable by the the Commission and the public upon submittal.

Submission of Comments During the Meeting:

Speakers are limited to a maximum of 3 minutes per person. To submit a comment in person, you must complete a speaker card for each item. Speaker cards are available in the Civic Center Meeting Hall lobby. Indicate on the card the item number you wish to comment on and submit the card directly to the Planning Commission Liaison prior to the start of the item. Please note that the Planning Commission is prohibited by State law from taking action on any items that are not listed on the agenda. However, if your item requires action, the Planning Commission may place it on a future agenda or direct staff to work with you and/or report to the Planning Commission on the issue.

If you would like to deliver written materials to the Commission as part of your public comments, please provide 8 copies of to the Planning Commission Liaison with your speaker card.

The **Planning Commission Agenda and Agenda Reports** are prepared by City staff and are available for public review on Friday evening, three days prior to the Planning Commission meeting at 1016 South Livermore Avenue, Livermore. The Agenda is also available on the City's website, http://livermoreca.gov/agenda.

Under Government Code §54957.5, any supplemental material distributed to the members of the Planning Commission after the posting of this agenda will be available for public review at City Hall, 1052 South Livermore Avenue, Livermore, and included in the agenda packet available on the City's web site at http://livermoreca.gov/agenda.

PURSUANT TO TITLE II OF THE AMERICANS WITH DISABILITIES ACT (CODIFIED AT 42 UNITED STATES CODE SECTION 12101 AND 28 CODE OF FEDERAL REGULATIONS PART 35), AND SECTION 504 OF THE REHABILITATION ACT OF 1973, THE CITY OF LIVERMORE DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN, ANCESTRY, SEX, DISABILITY, AGE OR SEXUAL ORIENTATION IN THE PROVISION OF ANY SERVICES, PROGRAMS, OR ACTIVITIES. TO ARRANGE AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PUBLIC MEETING, PLEASE CONTACT THE ADA COORDINATOR AT ADACOORDINATOR@LIVERMORECA.GOV OR CALL (925) 960-4170 (VOICE) OR (925) 960-4104 (TDD) AT LEAST THREE (3) BUSINESS DAYS IN ADVANCE OF THE MEETING.

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 6.1**

DATE: September 16, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Planning Commission Training: 2025 Land Use and Housing Legislation Update by Eric S. Phillips from the law firm of Burke, Williams and Sorenson, LLP.

RECOMMENDED ACTION

Staff recommends the Planning Commission receive the training and ask any clarifying questions.

DECISION TYPE

Not Applicable

SUMMARY

DISCUSSION

ATTACHMENTS

Prepared by: Steve Riley
Planning Manager

LIVERMORE
CALIFORNIA

PLANNING COMMISSION STAFF REPORT **ITEM NO. 8.1**

DATE: September 16, 2025

TO: Chairperson and Members of the Planning Commission

FROM: Steve Riley, Planning Manager

SUBJECT: Supplemental materials received at the meeting.

RECOMMENDED ACTION

These materials were posted online and made available to the public at the same time that they were distributed to the Planning Commission.

6.1 Planning Commission Training: 2025 Land Use and Housing Legislation Update by Eric S. Phillips from the law firm of Burke, Williams and Sorenson, LLP.

Materials Received: PowerPoint Presentation

DECISION TYPE

SUMMARY

DISCUSSION

ATTACHMENTS

1. Supplemental Materials

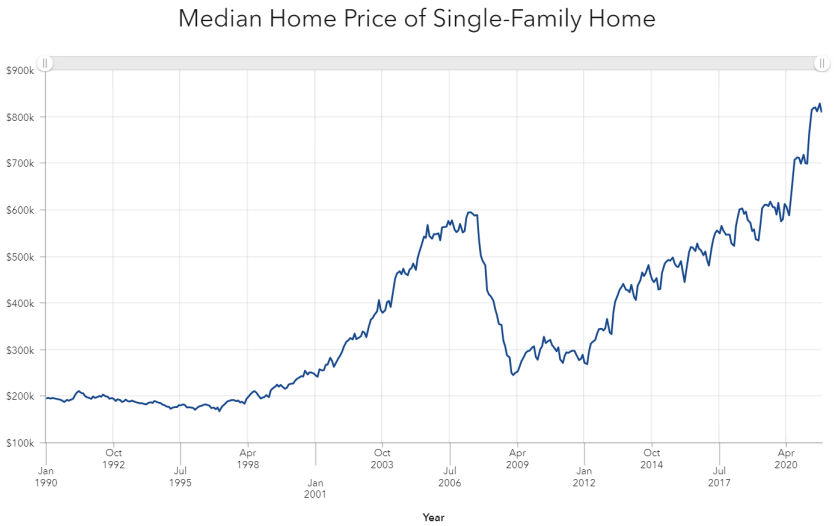
Prepared by: Michele Donley
Division Clerk

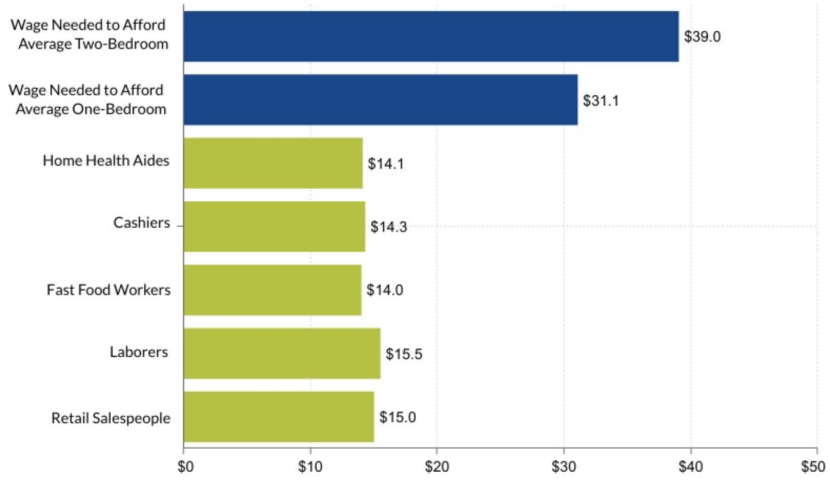
2025 Land Use and Housing Legislation Update
City of Livermore

September 16, 2025

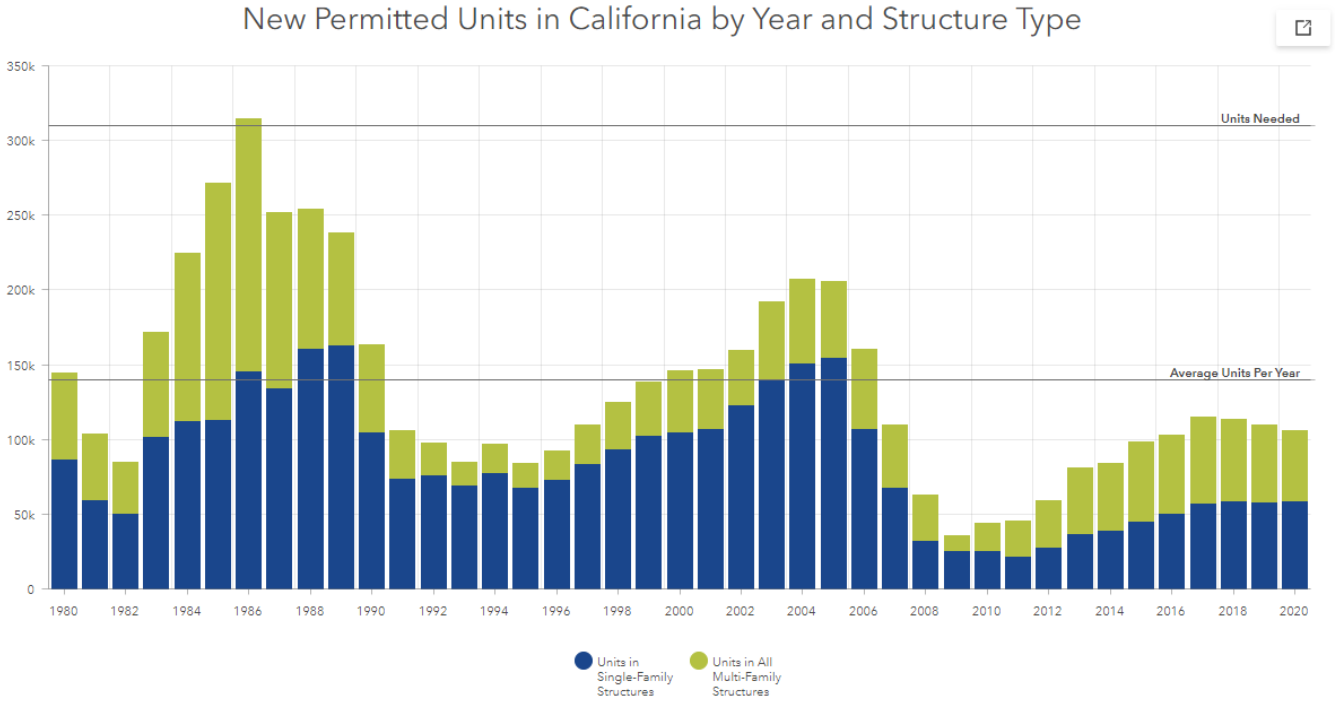
Eric S. Phillips
Burke, Williams & Sorensen, LLP
ephillips@bwslaw.com
415.655.8114

California's Housing Crisis

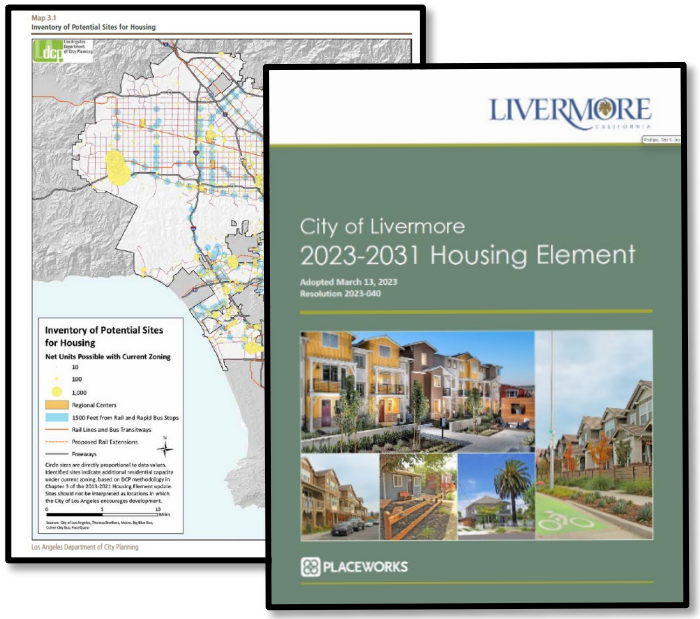




How did we get here?



Housing Element Concept



A "Fair Share" Housing Law

Cities and counties must show adequate land zoned for housing to accommodate a proportion of regional housing need

Beyond the Housing Element

- Housing Accountability Act
  - Limits local discretion to criteria based on objective development standards
- Density Bonus Law
  - Modifies development standards in exchange for affordable housing
- Housing Crisis Act
  - Prohibits down zoning and requires any new development standards to be objective
- Intensified Single-Family Zones
  - ADU Laws and SB 9 allow multiple homes on properties that otherwise allow one dwelling unit

What Is An "Objective" Standard?

- Statutory definition:
  - "Objective" means involving no personal or subjective judgment by a public official and being 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

- Examples:
  - Height, setbacks, lot coverage, % open space, density, FAR, etc.

- Sources:
  - General plan, zoning, subdivision standards, design review standards written and in effect in advance

What Is Not "Objective"?

- Standards found not to be "objective:"
  - "Special care shall be taken to avoid obstructing views"
  - "Produce high quality authentic design"
  - "Reflect look and feel of the community"
  - *Honchariw*: Map Act finding that "the site is not physically suitable for the proposed development"

CEQA

CEQA Reform via Budget Trailer Bills ITEM 6.1

AB 130

- Creates new statutory exemption for qualifying infill housing development projects
- Establishes TOD Implementation Fund for VMT mitigation
- Makes SB 330's provisions permanent
- Simplifies PSA process for a project to be deemed approved

SB 131

- Exempts rezonings necessary to comply with the Housing Element from CEQA review
- Exempts 9 new project types from CEQA review
- Creates "near miss" provisions for streamlined CEQA review
- Limits the scope of the AR in CEQA litigation

AB 130 Housing Development Project Exemption

- Creates new PRC Sec. 21080.66
- Applies to infill sites up to 20 acres that are surrounded by or previously developed with urban uses
- Additional requirements:
  - Consistency with the applicable general plan, zoning code, and local coastal program standards, including the local density and objective planning standards, subject to deviations permitted under the Density Bonus Law.
  - Develop at a minimum density that is at least 50% of the jurisdiction's "Mullin" density standards under SB 375, which range from 10 to 30 units per acre.
  - Project location must meet all of the SB 35 siting criteria and not be located on environmentally sensitive lands such as hazardous waste sites, prime farmland, earthquake fault zones, or floodways, or very high fire hazard severity zone.
  - No demolition of a historic structure listed on a historic register prior to submission of a preliminary application.
  - For applications submitted after January 1, 2025, no portion of the project may be used as a hotel, motel, or bed and breakfast.
  - Projects located within 500 feet of a freeway must implement additional air quality mitigation measures, such as enhanced filtration systems and balconies oriented away from the freeway.
  - Post-approval completion of a Phase I environmental site assessment with mitigation of any recognized environmental conditions prior to receipt of a certificate of occupancy.
- Skilled and trained labor requirements apply to 100% affordable projects and projects over 85 feet in height
- Tribal consultation required

SB 131 Housing Element Rezoning Exemption

- Creates new PRC Sec. 21080.085
- Applies to rezonings that implement actions identified as Housing Element programs
- Excludes rezoning that would allow construction:
  - Of a distribution center or for oil and gas infrastructure
  - Within the boundaries of any natural and protected lands, unless such lands are excluced from the rezoning

SB 131 “Near Miss” Provisions

- Amends PRC Sec. 21080.1
- Provides that if a housing development project would be exempt but for “a single condition,” any CEQA review shall be limited to examination of environmental effects that condition causes
- Eligible projects may exclude alternatives analysis and discussion of growth inducing impacts
- Excludes housing development projects that include distribution center or oil and gas infrastructure or would be located on natural and protected lands

Exemptions for Homeless Shelters

- SB 1395 provides additional exemptions from CEQA for homeless shelters
- SB 1361 exempts from CEQA any actions taken by local agencies related to contracting for services for people experiencing homelessness, including case management, resource navigation, security services, residential services, and counseling services

HOUSING ELEMENT, ANNUAL REPORTING, AND ENFORCEMENT

AB 3093, AB 2023, AB 2667, and AB 2580



Seventh Cycle Housing Element Update must:

Meet the housing needs of acutely low income households (below 15% of AMI) and extremely low income households (15%-30% AMI)

Analyze the constraints on housing production caused by historic preservation practices

Include AFFH analysis before the first draft of the housing element is released for public review

Site inventory must be posted at least 90 days before draft HE is adopted

Rezoning must be complete within one year after HE due date



APRs must address:

Acutely low and extremely low income housing production

AFFH milestones using HCD-adopted forms and additional reporting on units located within opportunity areas

Status of any housing development projects proposed for sites newly designated historic

Housing Element Presumptions (AB 1886 and AB 2023)



New Gov. Code Sec. 65585.03 requires HCD or court finding of Housing Element compliance



HCD finding of non-compliance creates presumption that Housing Element is inadequate



The builder's remedy will apply until HCD or a court certifies the Housing Element

New Civil Penalties (SB 1037)



- Gov. Code 65009.1 provides for AG or HCD enforcement of
  - Housing Element adoption deadline
  - Any state law requiring ministerial approval of a housing project
- Civil penalties of at least $10,000 per month (up to $50k) plus attorney's fees and costs for violations that are "arbitrary, capricious, entirely lacking in evidentiary support, contrary to established public policy, unlawful, or procedurally unfair"

AB 1893:

- Provides parameters for development standards to apply to builder's remedy projects
- Broadens the definition of actions that constitute a "denial" of a housing development project under the HAA

Builder's Remedy Standards

Affordability Standards

- 100 percent affordable using TCAC rents
- 100 percent affordable to moderate income households using Health and Safety Code rents or sales prices
- Housing affordable to mixed income households
  - seven percent of its base density to extremely low income households
  - ten percent of its base density to very low income households
  - thirteen percent of its base density to low income households
- projects with 10 or fewer units on a site smaller than one acre and with a minimum density of 10 du/ac are eligible without providing any dedicated affordable housing

Density and Development Standards

- A project that is eligible for the builder's remedy may have a maximum density that is the greater of:
  - fifty percent of the default density presumed to be available for affordable housing sites
  - three times the density allowed by the general plan, zoning, or state law
  - the density designated for the site in the housing element
- If the project is near transit or in a high resource census tract, an additional density of 35 du/ac shall be added to the otherwise-applicable base density
- Projects may also further increase density through a density bonus and take other benefits available under Government Code Section 65915

HAA Violations

- HAA now applies to any vote or administrative action on a housing development project
- A disapproval now includes the City:
  - Failing to meet the time periods in the Permit Streamlining Act;
  - Failing to meet the time periods to approve post-entitlement phase permits;
  - Continuing to undertake conduct to improperly harass, delay, or increase the cost of a project without taking final action after receiving written notice from the applicant challenging such conduct;
  - Exceeding the five hearing limitation in SB 330;
  - Finding an application incomplete on a basis not included on the City's application checklist;
  - Requiring a builder's remedy project to apply for a legislative approval;
  - Improperly determining that a preliminary application has expired or that project has lost its vested rights; and
  - Failing to make a CEQA determination that complies with Government Code Sections 65589.5.1 or 65589.5.2



LAND USE/PLANNING

Public Notice (AB 2904)



Requires local agencies to provide **at least 20 days notice** before the required public hearing on a proposed zoning ordinance or amendment to the zoning ordinance, if the proposed ordinance or amendment affects the permitted uses of real property

Supportive Housing Act (AB 1801)

- Supportive Housing Act permits qualifying project by-right in multifamily and mixed-use zones
- AB 1801 amends the Act to allow for admin office space in up to 25% of the total floor area of the project
  - "Administrative office space" means an organizational headquarters or auxiliary office space utilized by a nonprofit organization for the purpose of providing onsite supportive services at a supportive housing development authorized pursuant to this Article and includes other nonprofit operations beyond the scope of the corresponding supportive housing development
  - "Administrative office space" includes parking necessary to serve the office space

State Density Bonus Law

AB 2694 makes clear that Residential Care Facilities for the Elderly (RCFEs) qualify as senior citizen housing developments under DBL

AB 2430 prohibits the City from charging a monitoring fee on a 100% affordable housing developments if the units in the development are subject to a regulatory monitoring agreement with state agencies

AB 3122

- Revises certain aspects of SB 35/SB 423 (Wiener), including the threshold at which a local government can apply recently adopted objective planning standards when a development approved pursuant to SB 35/423 is modified post-entitlement
- Significant change for projects with at least 500 units submitted before January 1, 2019: affordable housing requirement reduced from 50% to 20%

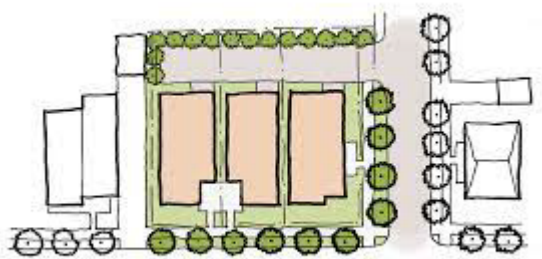
STREAMLINING AND BY-RIGHT APPROVALS

SB 450

- SB 450 clarifies objective development standards and closes loopholes used by local agencies to deny ministerial approval of two-unit development allowed under SB 9
  - Objective standards must not be more stringent for eligible projects than they would be for projects approved pursuant to the underlying zoning
  - Removes SB 9's restriction on demolishing more than 25% of existing exterior structural walls
  - Prohibits local agencies from imposing non-uniform objective development standards, unless standards are more permissive
- SB 9 applications, if complete, now must be approved or denied within 60 days, or automatic approval occurs
- SB 450 clarifies that the law is needed to increase overall housing production, which will help address the housing shortage and relieve cost pressures
  - Addresses a deficiency found by the L.A. County Superior Court that the law doesn't apply to certain charter cities because it didn't have affordable housing requirements, but the legislative findings mentioned affordable housing as a goal of the law



Small Lot Subdivisions (SB 1123)



- SB 1123 requires local agencies to ministerially approve the subdivision of vacant, single-family lots to allow for up to 10 units and makes other changes to SB 684 (Caballero)
  - Expands SB 684 to now apply in single-family zones
  - While the minimum lot size in multifamily zones cannot be greater than 600 square feet, this bill sets a minimum lot size of not greater than 1200 square feet in single-family zones

AB 2243

- Expands and modifies the provisions of the Affordable Housing and High Road Jobs Act of 2022 and the Middle-Class Housing Act of 2022
- The bill, among other things, now allows regional malls up to 100 acres to qualify under its provisions, while prohibiting a project from demolishing a historic structure listed on a local, state, or national register
- Removes density limitations for mixed-income projects converting existing buildings to residential use

ADUS

Administrative Amendments (AB 3057 and SB 477)



AB 3057 expanded the CEQA exemption in Public Resources Code Section 21080.17 to expressly include the adoption of Junior ADU implementing ordinances



SB 477 re-chaptered the ADU and Junior ADU laws to Government Code Sections 66310 through 66342

Substantive Amendments (AB 2533 and SB 1211)

- Previously, lots with existing or proposed multifamily dwellings were limited to no more than two detached ADUs.
  - Now, a local agency must allow up to eight detached ADUs on lots with an existing multifamily dwelling.
  - Lots with a proposed multifamily dwelling are still only entitled to two detached ADUs.
- Previously, the law provided protections for unpermitted ADUs constructed before 2018 and established procedures for permitting such structures; this now applies to Junior ADUs as well as ADUs, and the procedures apply to ADUs or Junior ADUs constructed before 2020.
- Building inspectors may provide recommendations to comply with health and safety standards, but that the City may not penalize the applicant for previously having an unpermitted ADU or Junior ADU.
- When an applicant applies for a permit to legalize an unpermitted ADU or Junior ADU, the City shall not charge impact fees, connection charges, or capacity charges, except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code.



FEES

- Requires the City to post on its website specified information about the amount of inclusionary housing in-lieu fees how they were spent





- Requires cities and counties to set lower traffic impact mitigation fees for transit-oriented housing developments near major transit stops, instead of just at transit stations
- Changes the definition of a major transit stop to include stops with 20-minute headways to qualify

AB 1820

Requires local agencies to provide developers with more information on fees and exactions at various stages of the housing development approval process, if requested

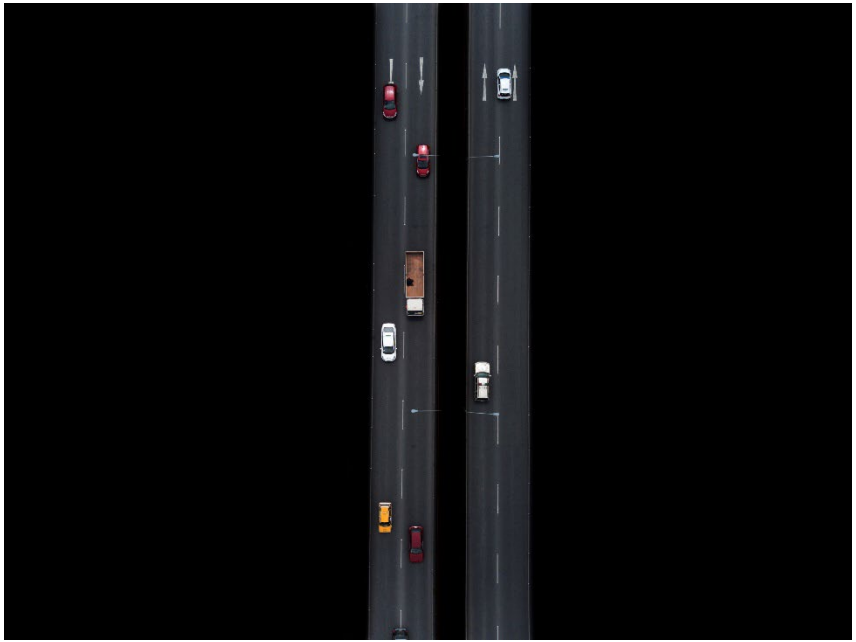
- Valid SB 330 preliminary application may include a request for a good-faith estimate of total fees and exactions
- Local agency has 30 business days to respond
- Within 30 business days of project approval, local agency must provide an itemized list and good-faith estimate of total fees and exactions

SB 1210

- Requires electrical, gas, sewer, and water service utilities to post estimated fees and timeframes for new service connections needed to connect new housing construction projects

AB 3177

- Prohibits a local agency from imposing a land dedication requirement on a housing development to widen a roadway for the purpose of mitigating vehicular traffic impacts or achieving an adopted traffic level of service (LOS) related to vehicular traffic
- However, local agencies may still require land dedication for roadways if the housing development is not located in a transit priority area and the housing development has a linear street frontage of 500 feet or more



SB 937

- Prohibits a local government from requiring payment of fees or charges for public improvements or facilities on a designated residential development project before the development receives a certificate of occupancy/final inspection, except under certain conditions
- Authorizes a local government to collect certain unpaid fees or charges in accordance with a specified procedure if the housing developer does not post a performance bond or letter of credit

AB 2729

- 18-month extension for housing project approvals, permits, and entitlements
- Applies to entitlements in effect before January 1, 2024, and expiring before December 31, 2025
- Does not extend development agreements or SB 330 preliminary applications

QUESTIONS?