Planning Innovations
How Objective is Objective?

EFFECTIVE DEVELOPMENT STANDARDS IN THE SB35 AND HOUSING ACCOUNTABILITY ACT ERA
Welcome

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BAY AREA METRO INTEGRATED PLANNING TEAM
HOW OBJECTIVE IS “OBJECTIVE”?

ABAG PLANNING INNOVATIONS FORUM
TUESDAY, FEBRUARY 13, 2018

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“The Legislature’s intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval & construction of new housing for all economic segments of California’s communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density of, or render infeasible housing development projects. This intent has not been fulfilled.”
THE BIG THREE BILLS FOR LOCAL APPROVAL:
OVERVIEW

**HAA**
Affects all “housing development projects”
Must advise on consistency within 30 – 60 days of completeness
Difficult to deny or reduce density if “objective” standards are satisfied
Additional findings required to deny or make infeasible if project is affordable or an emergency shelter

**SB 35**
Affects housing projects that qualify for streamlining
Must advise on consistency within 60 – 90 days of submittal
Must complete “public oversight” within 90 – 180 days

**No Net Loss**
Affects ALL projects on Housing Element sites
Must provide at least the number of units listed in the Housing Element at the income level shown in the Housing Element or comply with ‘no net loss’ (Section 65863)
Applies to **ALL** “housing development projects” and emergency shelters:

- Residences only;
- Transitional & supportive housing;
- Mixed use projects *with at least 2/3 the square footage designated for residential use.*

Affordable AND market-rate
If complies with “objective” general plan, zoning, and subdivision standards, can only reduce density or deny if “specific adverse impact” to public health & safety that can’t be mitigated in any other way.”

Honchariww v. County of Stanislaus (2011)
What Is an “Objective” Standard?

SB 35:

“Standards that 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 and the public official prior to submittal.”
HOUSING ACCOUNTABILITY ACT (65589.5)
Standards found not to be “objective:”

- “Address unmet need for senior housing.”
- “Special care shall be taken to avoid obstructing views to the surrounding hills.”
- “Produce high quality authentic design.”
- “Reflect look and feel of the community.”

Honchariwin: SMA finding that “the site is not physically suitable for the proposed development.”
If desire to deny or reduce density:

- Identify **objective** standards project does not comply with.
- If project complies with all, must find specific adverse effect on public health & safety.

- “Specific adverse effect” must be significant, quantifiable, direct, and unavoidable based on written health & safety standards on date project deemed complete, & no way to mitigate.
City must provide list of any inconsistencies with:

- “Plan, program, policy, ordinance, standard, requirement or similar provision”;
- Within 30-60 days of completeness;
- Explaining why inconsistent; or
- “Deemed consistent.”
HOUSING ACCOUNTABILITY ACT

Major limitations:

- **CEQA still applies**
  - *Schellinger Bros. v. City of Sebastopol* (2009): must complete CEQA before can invoke HAA

- **Can probably still apply subjective Coastal Act standards**
### SB 35: ‘STREAMLINING’

#### Determine if Jurisdiction is Subject to SB 35
- Not enough building permits to satisfy RHNA
- No Annual Report for 2 Years

#### Determine if Project is Eligible for Streamlining
- 2 or more m-f units in urbanized area zoned or planned for residential
- Meets all objective standards
- Meets affordable housing and labor requirements

#### Determine if Exclusion Applies
- Project site may not be on list of exclusions
- Project must not require subdivision unless LIHTC-funded and/or meets labor requirements
SB 35: ‘STREAMLINING’

- Project must be consistent with ‘objective’ zoning and design review standards:
  - Consistent with zoning if consistent with maximum density in general plan, without consideration of maximum unit allocation;
  - Density bonuses are consistent;
  - General plan standards trump inconsistent zoning standards.
SB 35: ‘STREAMLINING’

- Ministerial review ONLY based on ‘objective’ standards

- Within 60 to 90 days of submittal, provide list of all inconsistencies with ‘objective’ zoning and design review standards in effect at submittal or project “deemed consistent”

- Review can’t last more than 90 – 180 days from submittal
PROBLEMS FOR PLANNERS

- Very difficult to reconcile and interpret housing bills in the context of all planning & zoning statutes

- Only "objective" standards?
  - HAA only applies to denial or reduction in density
  - Flexibility v. predictability
  - Public and decision-maker expectations regarding ‘neighborhood character’ and extent of authority

- General plan needs to be more like a zoning ordinance or specific plan
HAA IN BERKELEY
Local Zoning and State Law

- Base Zoning Regulations
- Discretionary Permits
- Demolition / Replacement
- Neighborhood Preservation Ordinance
- State Mandate
- Limited Discretion
- Housing Production
- Implicit Affordability
- CEQA Exemptions
Zoning and Use Permits – By Right?

- Units per Lot Area
- Yards / Setbacks
- Maximum Lot Coverage
- Height Limit
- Parking Per Unit
- Open Space Areas
- Demolition

- New Units – discretion?
- Reduced Setbacks
- Increased Lot Coverage
- Increased Height
- Reduced Parking
- Reduced Open Space
- Remove/Replace – discretion?
Findings

- Consistency
  - Purposes
  - Pattern
  - Character

- Non-Detriment
  - Light
  - Air
  - Views

- Demolition
  - Hazardous Conditions
  - Not Materially Detrimental to Housing Needs and Public Interest
Haskell Street Project

- Demolish 1920s Bungalow on 6,000 sf lot
- Build Three New Units – 2,000 sf each
- Meets All Base Zoning Standards
- Use Permit for Demolition / New Units
First Denial

- Not in keeping with neighborhood character
- Shading impact on neighboring yards
- Impinges on privacy of neighbors
- Demolition affects affordability and character
Court Order

- Reconsider decision, base zoning is met
Second Denial

- Demolition is a discretionary permit not covered by HAA
Court Order

- Project is compliant – should be approved
- Failure to act by Council – Court orders approval
HOW OBJECTIVE IS “OBJECTIVE”?

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The City of Redwood City

Approach to Implementing New Housing Laws (2018)
Redwood City Basics

- SF/SJ Midpoint
- San Mateo County Seat
- Population: Approximately 85K
- “Climate Best By Government Test”
- Celebrating 150 years in 2017
Downtown Redwood City Housing Production

- Fully Private
- RDA Assisted

Bar chart showing housing production in different decades from 1960s to 2000s.
Key Standard: Building Height
2.7. BUILDING HEIGHT AND DISPOSITION REGULATIONS

This section contains several regulations of the heights of buildings. The DTIP regulates height to ensure that adequate density and intensity can be achieved in order to support the urban vitality desired for Downtown, while also ensuring compatibility with historic resources and adjacent low-rise residential neighborhoods and minimizing shadow impacts. This Section will also ensure that buildings allow for adequate courtyards and other spaces to enhance livability by providing access to natural light and air.

MAP LEGEND

- 12 Story Zone
- 10 Story Zone
- 8 Story Zone
- 5 Story Zone
- 4 Story Zone
- 3 Story Zone
- Shadow Sensitive Public Open Space (See Sec. 2.7.5)
  - Maximum Corner Height Required (See Sec. 2.7.3)
  - Special Corner Treatment Required (See Sec. 2.7.2)
  - Historic Resources (See Sec. 2.1.3)

SHADOW-SENSITIVE PUBLIC OPEN SPACES*

A. Courthouse Square  F. Depot Plaza
B. Theatre Way        G. Little River Park
C. City Hall Park     H. Post Office Paseo
D. Library Plaza      I. Redwood Creek
E. Hamilton Green     J. City Center Plaza

* Please note that not all Public Open Spaces are shown on this map. The only Public Open Spaces shown here are those which are considered shadow-sensitive. For a full discussion of Downtown public open spaces, see sections 1.2.5, 3.2.1, and Appendix 2.

HEIGHT REGULATIONS MAP
RELATION TO SINGLE FAMILY HOMES
Key Standard: Use Regulations
<table>
<thead>
<tr>
<th></th>
<th>Residential</th>
<th>Office</th>
<th>Hotel</th>
<th>Minor Retail</th>
<th>Major Retail</th>
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</table>
Key Standard: Objective Design Standards
F) Contemporary

For the purposes of this Plan, the Contemporary Character Type is inspired by architectural characters from the mid-20th Century to today, such as Modernism and Post-Modernism. The Contemporary Character Type does not mean “anything goes.” It has as thorough a set of guidelines as the other Character Types, and must still conform to the Façade Composition regulations in Section 2.8. The Contemporary Architectural Character Type is unique not because it has fewer standards, but because its guidelines draw upon contemporary building materials, modern construction methods, and simple geometric forms to create a visual identity that is strongly distinct from the historically-inspired Character Types.

1. Standards
   a. The Contemporary Character Type shall be permitted as shown on the Architectural Character Chart.

2. Guidelines
   a. Flat roofs may be used, or shaped roofs may be treated as geometric forms or volumes that may “stand out.” Examples include: barrel vaults, angled planes, curved planes, and extended overhangs. Manifold roofs may also be used.
   b. Roofing may be tile, slate, wood shakes or shingles, sheet metal shingles, or standing metal seam.
   c. Wall cladding may be brick, stucco, wood, ceramic tile, terra cotta, or metal. Glass may be used as an accent cladding material (e.g. a vertical bay or the building top may be expressed as a curtain wall) but should not cause its respective building height articulation element to exceed the glazing limit set forth in Section 2.8. Multiple cladding materials may be used within each Façade Height Articulation Element or materials may vary from element to element.
   d. Trim materials should be stucco, ceramic tile or polished metal. Multiple trim materials may be used.
   e. Building base and building middle stories may be horizontal belt courses, ornamental lines, or cornices. Building Top Caps may be ornamental finials, cornices, or deep roof overhangs featuring brackets, corbels, or other exposed roof overhang supports. When roof overhangs are used, the select (i.e., the underside surface of the roof overhang) should be designed as a visible feature and incorporated into the overall architectural composition.
   f. Bay windows should be polygonal or rectangular in plan, and the angles of the inside elements of the bay should be 135 or 60 degrees.
   g. Windows shapes should be generally simple and rectangular, but may have angled or arched tops. Round windows may be used as a secondary window type.
   h. Building Middle and Building Top windows may be clerestory or tinted (if tinted, glazing is used, light blue and green, gray or blue hues should be used), should be inset a minimum of 3 inches from the adjacent wall plane, and should be of the double- or single-hung type, casement, or skylights.
   i. Building colors should be composed of contrasting hues and tones, with individual building elements or forms emphasized through use of an accent color. Strong, saturated hues should be used to play off of neutral hues. Multiple wall colors may be used within each Façade Height Articulation Element or colors may vary from element to element.
Building Caps in EIR/DTPP

- 2,500 Residential Units
- 500,000 sq. ft. Office Space
- 200 Hotel Rooms
- 100,000 sq. ft. Retail Space
MARSTON APARTMENTS
601 MAIN ST
Downtown Redwood City Housing Production

2372 units
(200+ affordable units)
With New Housing Laws...

How will Redwood City’s process be impacted Downtown and elsewhere?
Housing Accountability Act

Create Objective Standards Checklist

require developers to submit checklist for complete application

Inform Council and Commission of Review Limitations

Create standard language for staff reports and incorporate into presentations
Housing Accountability Act
Before/After (Office)
Housing Accountability Act

Before/After: Housing
Housing Element Annual Reporting (AB 879)

Charter City Requirement

All cities are now required to submit annual report.

Automate Report

Set up database to automate housing numbers. Keep running totals for developer and public interest.
SB 35: Streamlined Approval

**Determine Applicability**

*Redwood City is subject to streamlining for projects that have 50% + affordability*

**Create Objective Standards Checklist**

*Require developers to submit checklist for complete application*
SB 35: Streamlined Approval

Create a Process Chart
For projects that qualify under SB 35, and for those that do not

Revise Zoning Code
Long term, we will consider creating ordinances with objective standards (like the DTPP)
Notice of Intent to Adopt Inclusionary Housing Ordinance

Council adopted to put developers and property owners “on notice” while code is being written
Questions?

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2017

California Housing Package

Department of Housing & Community Development (HCD)

October 13, 2017 Bill Signing
CA 2017 Housing Package
Enacted September 29, 2017

- Streamlined approvals
- Funding
- Greater enforcement
## 2017 Housing Package

<table>
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<tr>
<th>Bill Number</th>
<th>Description</th>
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<tr>
<td>SB 35</td>
<td>Streamline multifamily housing developments</td>
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<tr>
<td>SB 540</td>
<td>Establish Workforce Housing Opportunity Zones</td>
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<td>AB 73</td>
<td>Housing Sustainability Districts</td>
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<td>SB 2</td>
<td>Create a permanent source of funding</td>
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<td>SB 3</td>
<td>$4 billion housing bond</td>
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<td>AB 879</td>
<td>Additional housing evaluation</td>
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<td>AB 72</td>
<td>Housing element enforcement</td>
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<tr>
<td>AB 678/ SB167</td>
<td>Strengthen Housing Accountability Act</td>
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<td>SB 166</td>
<td>No-Net-Loss</td>
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<td>AB 1397</td>
<td>Housing element sites inventory</td>
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<td>AB 1505</td>
<td>Inclusionary housing</td>
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<td>AB 1521</td>
<td>Preservation</td>
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<tr>
<td>AB 571</td>
<td>Farmworker tax credit and OMS</td>
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Outreach

- Focus Groups
- Multi-disciplinary Meetings
- Regional Forums
- Existing Venues
- Bill Specific Efforts
## Type of HCD Work Product

<table>
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<tr>
<th>Bill</th>
<th>NoFA’s</th>
<th>Guidelines/Forms</th>
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<td>SB 35 (Streamlining)</td>
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<td>AB 879 (Annual Progress Reports)</td>
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Small Group Break Out

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