

# Planning Innovations How Objective is Objective?

---

EFFECTIVE DEVELOPMENT STANDARDS IN THE SB35 AND HOUSING  
ACCOUNTABILITY ACT ERA

# Welcome

---

GILLIAN ADAMS, HOUSING PROGRAM MANAGER

BAY AREA METRO INTEGRATED PLANNING TEAM

# HOW OBJECTIVE IS “OBJECTIVE”?

3

## ABAG PLANNING INNOVATIONS FORUM TUESDAY, FEBRUARY 13, 2018

GOLDFARB & LIPMAN LLP  
1300 CLAY STREET, 11<sup>TH</sup> FLOOR  
OAKLAND, CALIFORNIA 94612  
(510) 836-6336

BARBARA KAUTZ  
[BKAUTZ@GOLDFARBLIPMAN.COM](mailto:BKAUTZ@GOLDFARBLIPMAN.COM)

goldfarb lipman attorneys

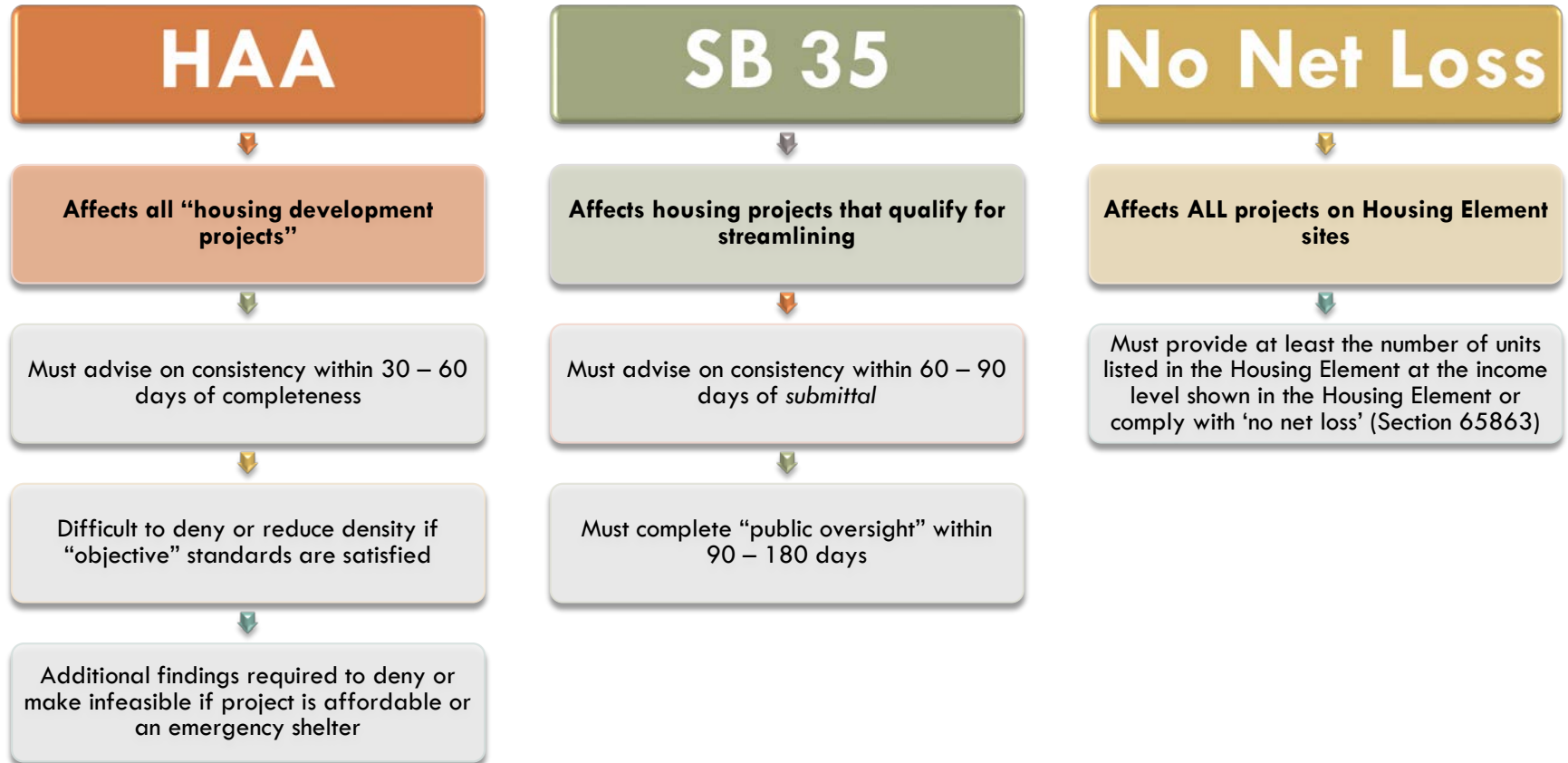
# THE STATE'S VIEW OF THE HOUSING CRISIS

4

“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

5



# HOUSING ACCOUNTABILITY ACT (65589.5)

6

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

# HOUSING ACCOUNTABILITY ACT (65589.5(j))

7

- 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.”
- *Honchariw v. County of Stanislaus* (2011)

# HOUSING ACCOUNTABILITY ACT (65589.5)

8

## 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)



goldfarb lipman attorneys

# HOUSING ACCOUNTABILITY ACT (65589.5(j))

10

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.”

*Honchariw*: SMA finding that “the site is not physically suitable for the proposed development.”

# HOUSING ACCOUNTABILITY ACT (65589.5(j))

11

- 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

# PROCESSING HOUSING APPLICATIONS: **SB167/AB678; AB 1515**

12

- 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

13

## 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**

- *Kalnel Gardens LLC v. City of LA* (2016)

# SB 35: 'STREAMLINING'

14

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'

15

- 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'

16

- 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

17

- 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

The Haskell Street Case

# 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”?

ABAG PLANNING INNOVATIONS FORUM  
TUESDAY, FEBRUARY 13, 2018

GOLDFARB & LIPMAN LLP  
1300 CLAY STREET, 11<sup>TH</sup> FLOOR  
OAKLAND, CALIFORNIA 94612  
(510) 836-6336

BARBARA KAUTZ  
[BKAUTZ@GOLDFARBLIPMAN.COM](mailto:BKAUTZ@GOLDFARBLIPMAN.COM)

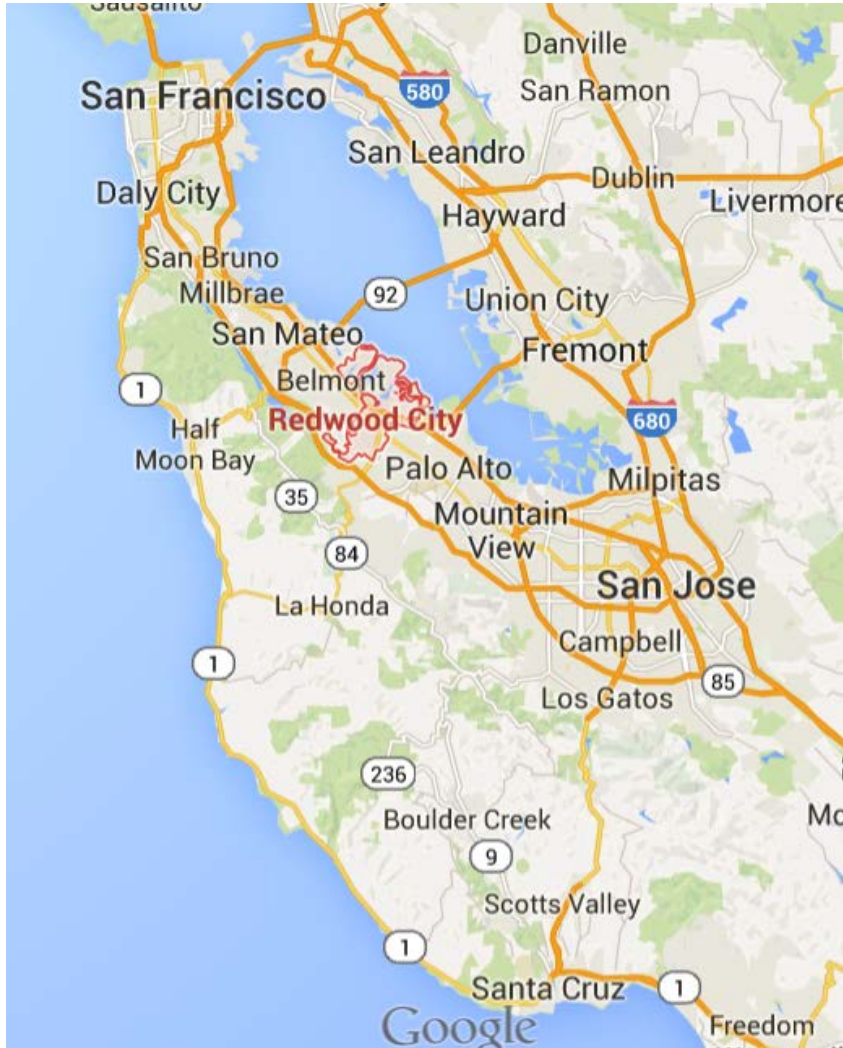
goldfarb lipman attorneys

# The City of Redwood City

## Approach to Implementing New Housing Laws (2018)

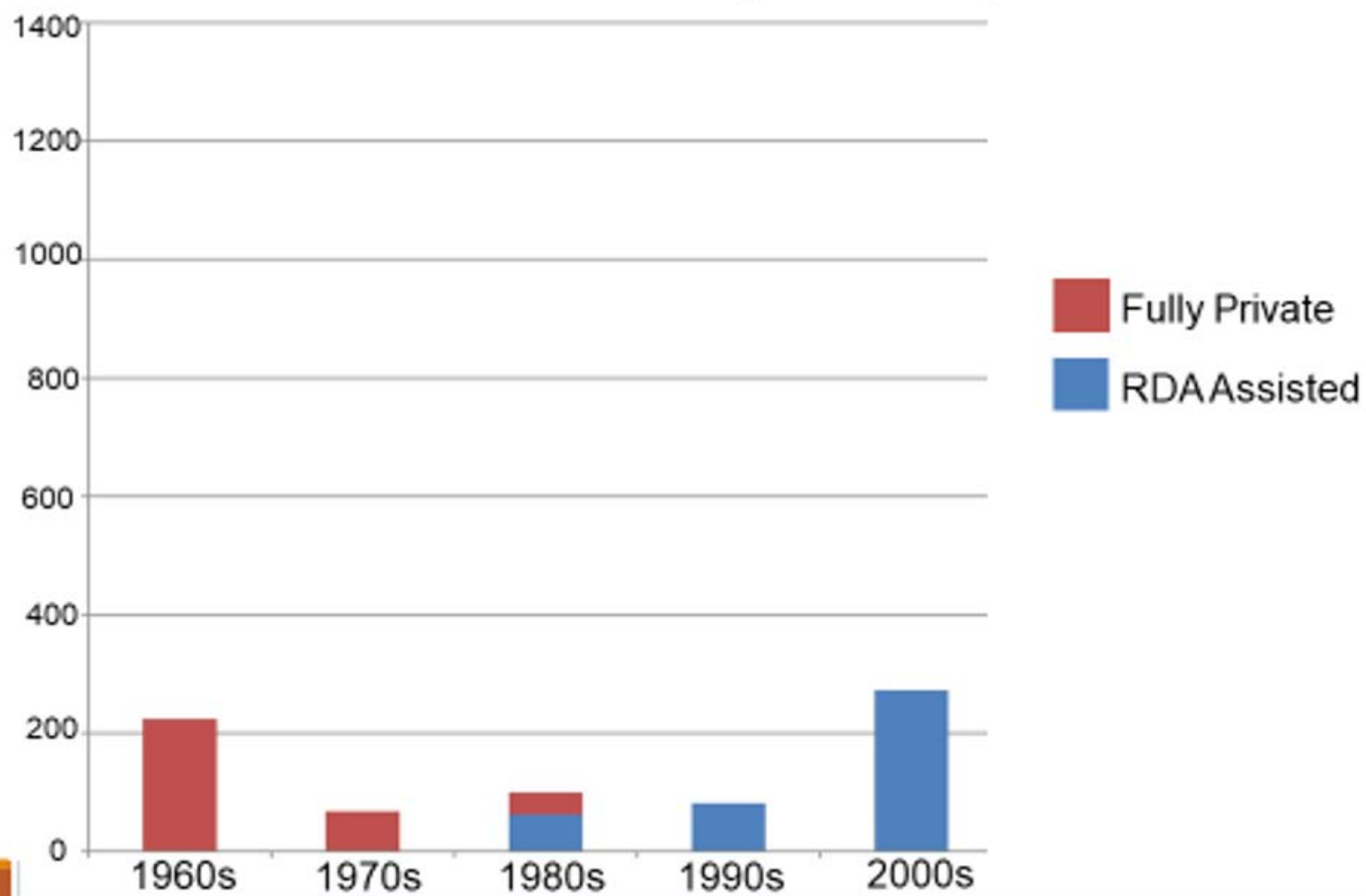


# Redwood City Basics



- 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





# Redwood City Downtown Precise Plan

## DOWNTOWN PRECISE PLAN

ADOPTED ON JANUARY 24, 2011

AMENDED ON JULY 22, 2013



REDWOOD CITY, CALIFORNIA | COMMUNITY INTENT & GUIDING PRINCIPLES | DEVELOPMENT REGULATIONS | CITY ACTIONS |

# Key Standard: Building Height



## 2.7. BUILDING HEIGHT AND DISPOSITION REGULATIONS

This section contains several regulations of the heights of buildings. The DTPP 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.

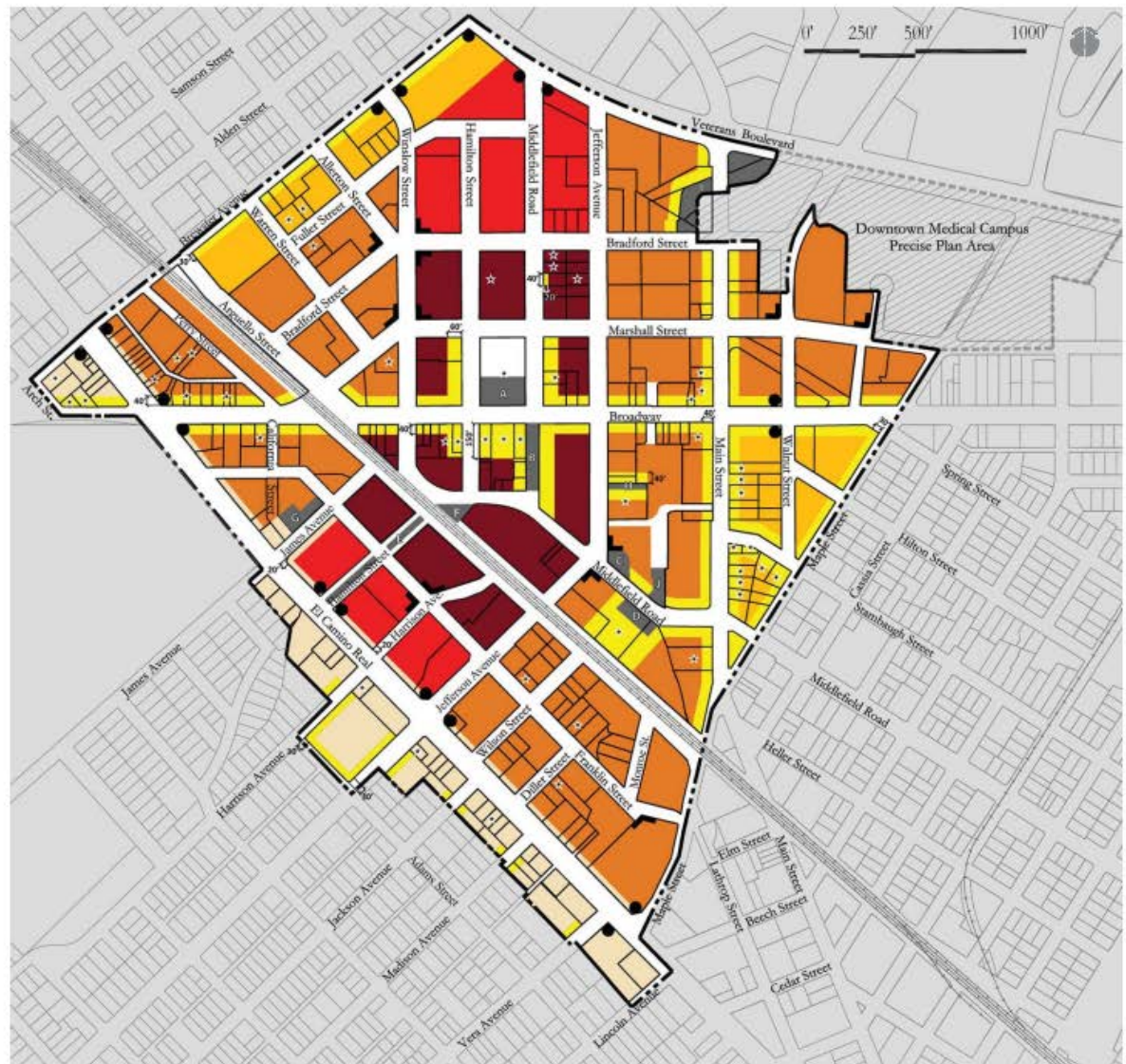
### MAP LEGEND

- 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)

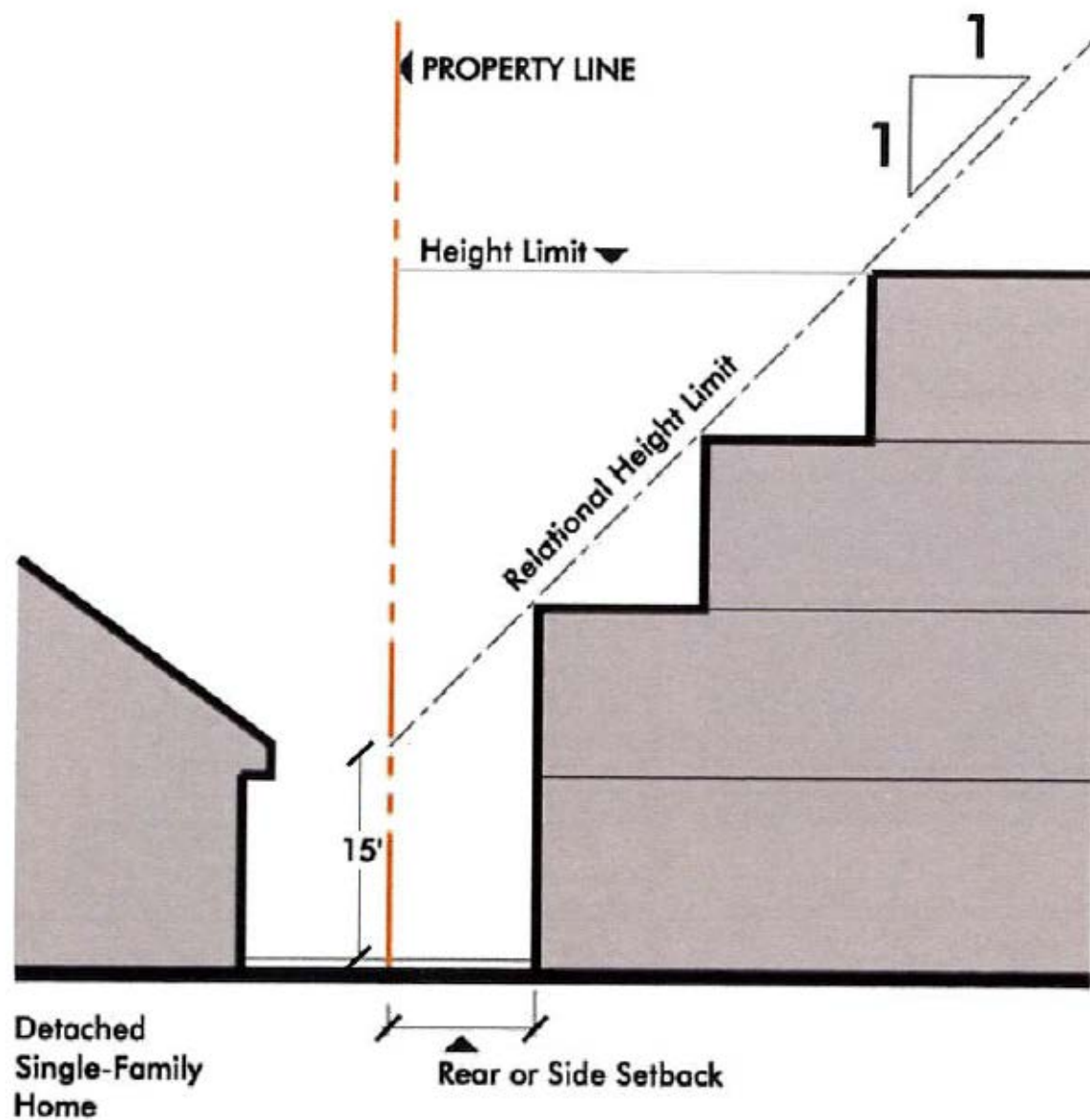
### SHADOW-SENSITIVE PUBLIC OPEN SPACES\*

- |                      |                      |
|----------------------|----------------------|
| 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 2.5, 3.2.1, and Appendix 2.



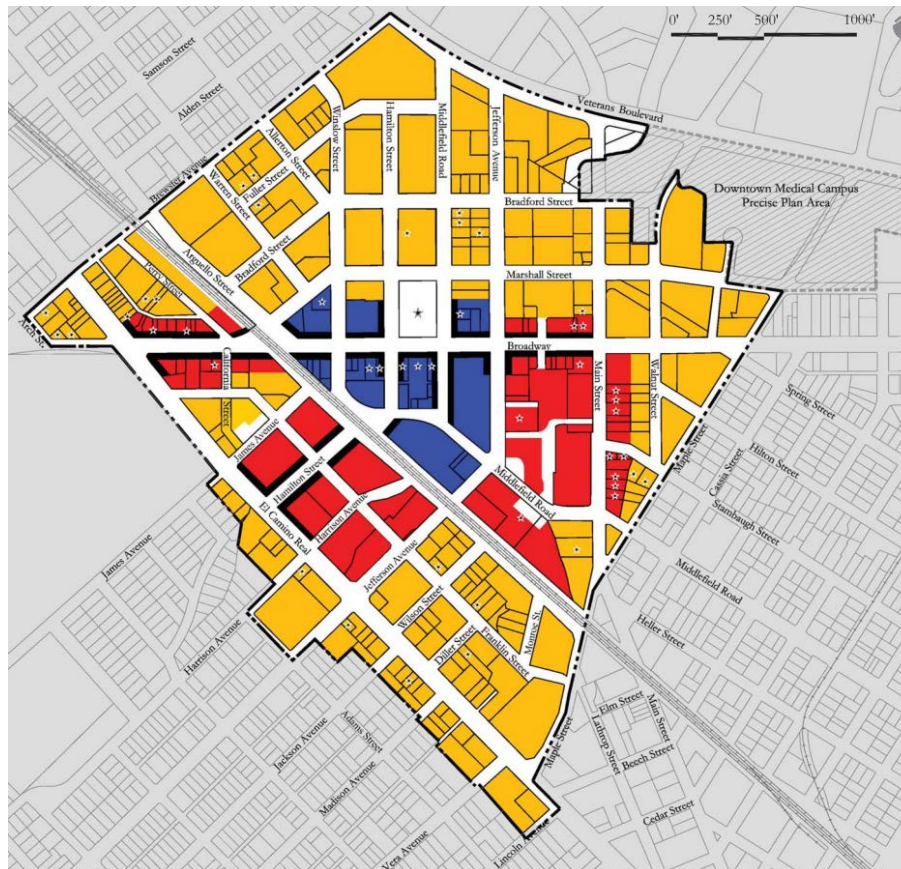
HEIGHT REGULATIONS MAP






## RELATION TO SINGLE FAMILY HOMES

# Key Standard: Use Regulations





		Residential	Office	Hotel	Minor Retail	Major Retail	Entertain- ment
	<b>Entertainment District</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
	<b>Downtown Core</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
	<b>Downtown General</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

# 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-20<sup>th</sup> 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 lower 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

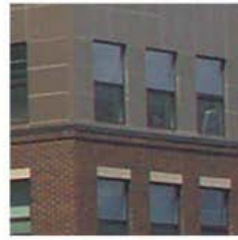
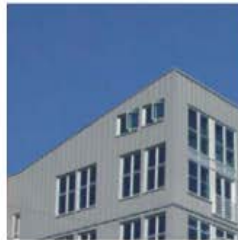
- a. The Contemporary Character Type shall be permitted as shown on the Architectural Character Chart.

### 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. Mansard 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 Component 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 caps may be horizontal belt courses, ornamental friezes, or cornices. Building Top Caps may be ornamental friezes, cornices, or deep roof overhangs featuring brackets, corbels, or other expressed roof overhang supports. When roof overhangs are used, the soffit (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 corners of the bay should be 135 or 90 degrees.
- g. Window 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 clear or tinted (if tinted glazing is used, light tints 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 sliders.
- 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



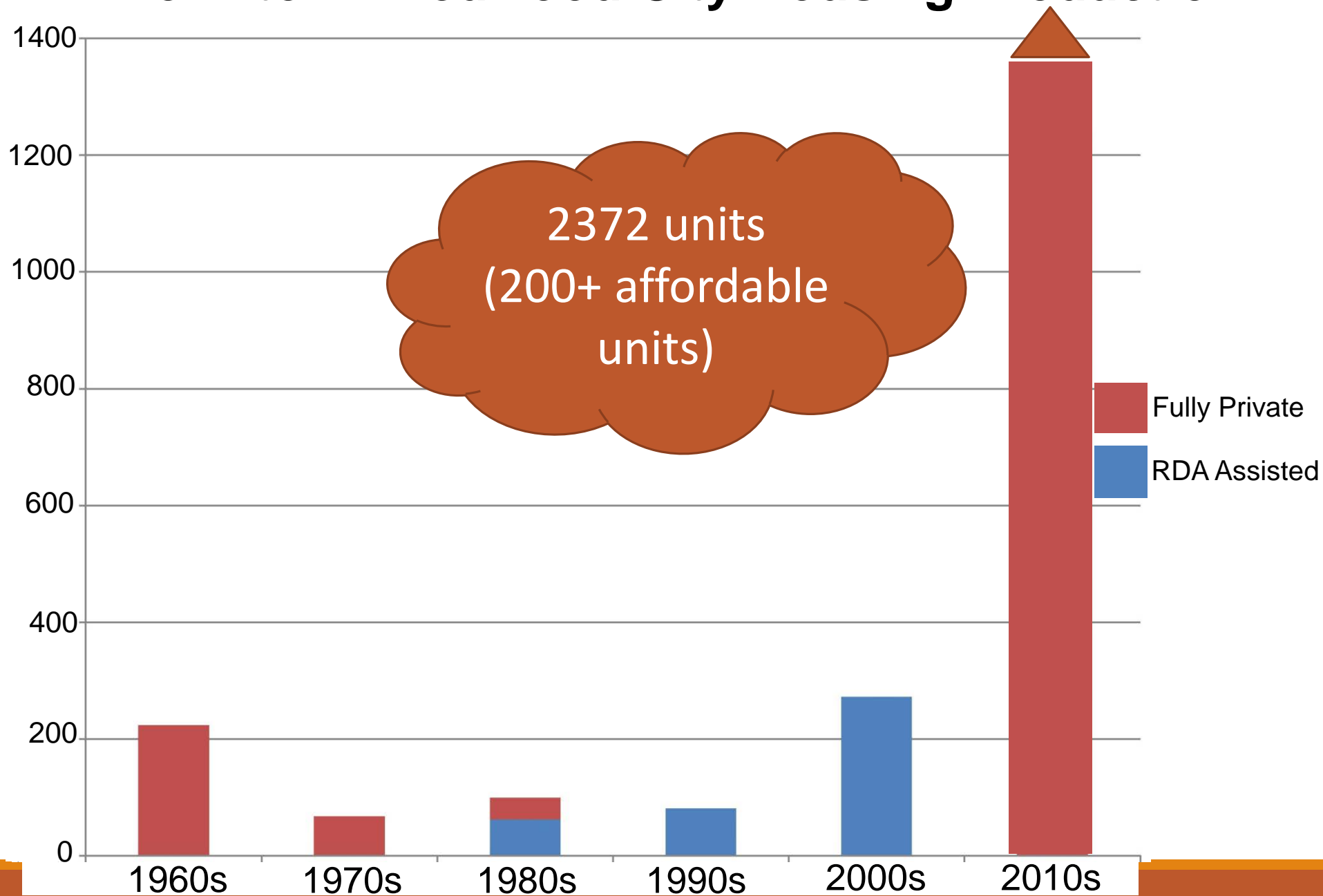


# LOCALE APARTMENTS

488 WINSLOW ST



# Downtown Redwood City Housing Production



# 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)*

# AB1505: Palmer Fix

---

## **Notice of Intent to Adopt Inclusionary Housing Ordinance**

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

# Questions?

Contact Info:

Aaron Aknin, AICP

[aaknin@redwoodcity.org](mailto:aaknin@redwoodcity.org)

(650)780-7293



# 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

<b>SB 35</b>	Streamline multifamily housing developments
<b>SB 540</b>	Establish Workforce Housing Opportunity Zones
<b>AB 73</b>	Housing Sustainability Districts
<b>SB 2</b>	Create a permanent source of funding
<b>SB 3</b>	\$4 billion housing bond
<b>AB 879</b>	Additional housing evaluation
<b>AB 72</b>	Housing element enforcement
<b>AB 678/ SB167</b>	Strengthen Housing Accountability Act
<b>AB 1515</b>	Strengthen Housing Accountability Act
<b>SB 166</b>	No-Net-Loss
<b>AB 1397</b>	Housing element sites inventory
<b>AB 1505</b>	Inclusionary housing
<b>AB 1521</b>	Preservation
<b>AB 571</b>	Farmworker tax credit and OMS



# Outreach



- Focus Groups
- Multi-disciplinary Meetings
- Regional Forums
- Existing Venues
- Bill Specific Efforts



# Type of HCD Work Product

Bill	NoFA's	Guidelines/ Forms	Technical Assistance
SB 2 (Building Homes and Jobs Act)	X	X	X
SB 3 (Veterans and Affordable Housing Bond)	X	X	X
SB 35 (Streamlining)		X	X
SB 540 (Workforce Housing Overlay)	X	X	X
AB 73 (Sustainability District)	X	X	X
AB 879 (Annual Progress Reports)		X	X
AB 1521 (Preservation)		X	X
AB 1397 (Housing Elements)			X
SB 166 (No-Net-Loss)			X
AB 678, SB 167, AB 1515 (Housing Accountability Act)			X
AB 1505 (Inclusionary Ordinances)			X



# [hcd.ca.gov](http://hcd.ca.gov)



Visit:

## California Housing Package



Sign up to receive:

## Email Announcements



**California Department of Housing and Community Development**

2020 West El Camino Avenue, Sacramento, California 95833

916.263.7400

**Follow us on Twitter:** @California\_HCD

**Follow us on Facebook:** [www.facebook.com/CaliforniaHCD](http://www.facebook.com/CaliforniaHCD)

# Small Group Break Out

---

JOSH ABRAMS,

BAIRD + DRISKELL COMMUNITY PLANNING