



CITY of CALABASAS
CITY COUNCIL AGENDA REPORT

DATE: MARCH 18, 2019

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MICHAEL KLEIN, SENIOR PLANNER

**SUBJECT: REPORT ON ANNUAL PROGRESS – GENERAL PLAN HOUSING
ELEMENT, 2018**

MEETING DATE: MARCH 27, 2019

SUMMARY RECOMMENDATION:

Receive and file the attached annual progress report for 2018 regarding the City of Calabasas 2030 General Plan 2014-2021 Housing Element.

BACKGROUND:

California Government Code § 65400 (b) requires filing of an annual progress report regarding the Housing Element of the General Plan for all cities and counties. The annual report must be delivered to the City Council, the State Office of Planning and Research, and the California Department of Housing and Community Development (“HCD”). This agenda item meets the statutory requirements.

The 2008-2014 Housing Element was adopted by City Council on December 10, 2008 as part of the City’s 2030 General Plan update, and the Element was approved and certified as being compliant with State housing law by HCD on April 23, 2009. That Housing Element was updated and replaced by the 2014-2021 Housing Element on September 11, 2013, and the Element was approved and certified as being compliant with State housing law by HCD on July 19, 2013. The attached 2018 Annual Progress Report (Attachment A) was prepared based on the

2014-2021 Housing Element and the 5th Regional Housing Needs Allocation (RHNA) cycle.

DISCUSSION/ANALYSIS:

The attached progress report summarizes residential building activity, 5th cycle RHNA progress, and progress of housing program implementation for the calendar year of 2018. The report was prepared on forms provided by HCD, using definitions adopted by HCD. Previous reports had focused primarily on the issuance of building permits, however, HCD has adopted new reporting requirements that now include tracking the status of new housing development projects. In other words, the state has begun collecting data on what kind of housing projects are submitted to local jurisdictions and which projects are either approved or denied.

Table A2 of the progress report (which is replicated below) documents all residential building activity, based on building permits issued from January 1 to December 31 of 2018.

2018 Building Activity (Table A2)	
Income Category	New Units Constructed in 2018
Very Low	4
Low	0
Moderate	3
Above Moderate	76
TOTALS:	83

The Entitlement Activity Table of the progress report (replicated below) documents all proposed new residential housing development activity, based on projects that received entitlements from January 1 to December 31, 2018.

2018 Entitlement Activity (Summary Table)	
Income Category	New Units Entitled in 2018
Very Low	5
Low	0
Moderate	6
Above Moderate	40
TOTALS:	51

Table B of the progress report (which is replicated below) documents the total number of residential units that have received building permits compared with the City's 5th cycle RHNA, since the reporting period began in 2014.

2014-2018 Building Summary (Table B)			
Income Category	Assigned RHNA	New Units Constructed 2014-2018	Remaining RHNA
Very Low	88	12	76
Low	54	0	54
Moderate	57	10	47
Above Moderate	131	167	0
TOTALS:	330	189	177

As stated in the table above, there have been 189 new residential units constructed in the City between 2014 and 2018. Because 167 of those units were above moderate income, the surplus of those units cannot serve as a substitute for the affordable category units. Therefore, there are 177 units remaining to be built in the 5th RHNA cycle.

The twelve (12) units identified above in the "Very Low" income category are in the Avanti and Paxton developments, while the units identified in the "Above Moderate" income category are a combination of new market-rate condo/townhouse units and single-family dwellings. The units identified in the "Moderate" income category are new Accessory Dwelling Units (ADU) that have been permitted or legalized.

The City Attorney has prepared a memo (attachment B) regarding newly enacted housing legislation to accompany the annual progress report. According to the memo, in 2017 the CA legislature signed into law a historic housing package consisting of 15 bills that went into effect on January 1, 2018, aimed at addressing the State's housing affordability crisis. Prior to leaving office, Governor Brown signed into law 16 additional pieces of housing legislation, which went into effect on January 1, 2019. Some of these bills have changed the Regional Housing Needs and Fair Housing Laws, which have prompted the reporting changes discussed in this staff report.

FISCAL IMPACT/SOURCE OF FUNDING:

None

REQUESTED ACTION:

That the City Council receive and file the attached 2018 annual progress report regarding the 2014-2021 Housing Element of the 2030 General Plan.

ATTACHMENTS:

Attachment A: 2018 Annual Housing Element Progress Report
Attachment B: City Attorney Memo – Housing Legislation Update

Table B
Regional Housing Needs Allocation Progress
Permitted Units Issued by Affordability

		1	2									3	4
Income Level		RHNA Allocation by Income Level	2013	2014	2015	2016	2017	2018	2019	2020	2021	Total Units to Date (all years)	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	88			8			4				12	76
	Non-Deed Restricted												
Low	Deed Restricted	54											54
	Non-Deed Restricted												
Moderate	Deed Restricted	57										10	47
	Non-Deed Restricted				1	2	4	3					
Above Moderate		131		15	15	43	18	76				167	
Total RHNA		330											
Total Units 44				15	24	45	22	83				189	177

Note: units serving extremely low-income households are included in the very low-income permitted units totals
Cells in grey contain auto-calculation formulas

Jurisdiction	Calabasas	
Reporting Year	2018	(Jan. 1 - Dec. 31)

Entitled Units Summary		
	Income Level	Current Year
Very Low	Deed Restricted	5
	Non-Deed Restricted	0
Low	Deed Restricted	0
	Non-Deed Restricted	0
Moderate	Deed Restricted	0
	Non-Deed Restricted	6
Above Moderate		40
Total Units 44		51

Note: units serving extremely low-income households are included in the very low-income permitted units totals

Submitted Applications Summary	
Total Housing Applications Submitted:	9
Number of Proposed Units in All Applications Received:	10
Total Housing Units Approved:	9
Total Housing Units Disapproved:	3

Use of SB 35 Streamlining Provisions	
Number of Applications for Streamlining	0
Number of Streamlining Applications Approved	0
Total Developments Approved with Streamlining	0
Total Units Constructed with Streamlining	0

Units Constructed - SB 35 Streamlining Permits			
Income	Rental	Ownership	Total
Very Low	0	0	0
Low	0	0	0
Moderate	0	0	0
Above Moderate	0	0	0
Total	0	0	0

Cells in grey contain auto-calculation formulas

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MEMORANDUM

TO: Hon. Mayor and City Council, FILE NO: 33004.0001
Calabasas
Dr. Gary Lysik, City Manager
Maureen Tamuri, Community
Development Director
Tom Bartlett, City Planner

FROM: Matthew T. Summers, DATE: March 11, 2019
Assistant City Attorney
Lindsey F. Zwicker,
Assistant City Attorney

CC: Scott H. Howard,
Contract City Attorney
Michael Klein, Senior Planner

RE: Newly Enacted Housing Obligations for Local Governments

INTRODUCTION

In 2017, the California Legislature signed into law a historic housing package of 15 bills, spurred by California's housing affordability crisis. In 2018, the Legislature continued to focus on affordable housing laws intended to address and remediate the housing shortage. Before he left office, Governor Brown signed into law 16 pieces of housing legislation, which became effective on Jan. 1, 2019, and are designed to further increase access to affordable housing. The new laws can be grouped into the following categories:

- **Increasing Density and Housing Opportunities.** New laws reform the state's longstanding Density Bonus Law, which entitles developers to a density bonus and to certain concessions and incentives in exchange for including affordable housing in developments.

- **Streamlining and Removing Barriers to Housing Production.** New laws that revise the major streamlining laws from the 2017 housing package (SB 35 and the Housing Accountability Act), reduce parking requirements for historic reuse projects and remove barriers to the development of supportive and affordable housing.
- **Planning, Regional Housing Needs and Fair Housing Laws.** New laws that reform the process of assigning local jurisdictions their regional housing targets, promote fair housing goals in local planning processes and require charter cities to meet certain planning requirements that were previously only imposed on general law cities.

These laws increase accountability for local government to make progress toward approving sufficient housing to meet the state’s housing crisis. This memo examines the new housing laws that took effect in January of this year, focusing on the new elements, additions and amendments to the Housing Accountability Act and other laws governing review, approval, and denial of proposed affordable housing and density bonus projects in the City. Below, we provide summaries of the relevant laws as well as a discussion of their implications for the City’s approval process for new housing developments. The summaries are organized according to the above categories.

NEW AFFORDABLE HOUSING LEGISLATION

A. Increasing Density and Housing Opportunities

AB 2753 (Assembly Member Laura Friedman) – State Density Bonus Process Reforms.

This law makes several changes to the density bonus application process.

Specifically, this measure requires the City to notify the applicant of:

1. The amount of density bonus for which the applicant is eligible,
2. If the applicant requests a parking ratio, the ratio for which the applicant is eligible,
3. If the applicant requests incentives, concessions, or waivers or reductions in development standards, whether the applicant provided adequate information for the City to make a determination of eligibility.¹

¹ Gov. Code, § 65915, subd. (a)(3)(D)(i).

The notice must be provided at the time the development project application is deemed complete.² The City must adjust the final amount of density bonus and parking ratios awarded based on any changes during the course of development.³ This bill is intended to “provide greater certainty to a developer submitting a density bonus application[.]”⁴ Because the bill allows the City to adjust the final density bonus, parking ratio, and incentives, concessions, and waivers determinations, this law does not require an early final decision, but rather an early assessment and evaluation at the time the application is deemed complete.

This eligibility notice requirement may be adopted as part of the Planning Department’s internal procedures and does not need to be included in the Calabasas Municipal Code.

AB 2372 (Assembly Member Todd Gloria) – State Density Bonus Law Floor Area Ratio Bonus.

This law authorizes the City to grant a developer of an eligible housing development under the State Density Bonus Law a floor area ratio bonus in lieu of a bonus on the basis of dwelling units per acre, if the City adopts an ordinance to do so. Whether to adopt a new ordinance creating a floor area ratio density bonus is a discretionary choice for the City Council. The floor area bonus is calculated based on a formula prescribed in the new statute (allowable residential base density x (site area in square feet / 43,500) x 2,250). Under the new law, an eligible housing development is a multifamily housing development that provides at least 20 percent affordable units, is located within a transit priority area or a half-mile from a major transit stop, meets requirements for the replacement of existing units and complies with height requirements applicable to the underlying zone. This law also prohibits the City from imposing parking requirements in excess of specified ratios.

The new law authorizes, but does not require, the City to adopt an ordinance establishing a procedure to grant a developer of an eligible housing development a floor area ratio bonus (“FAR bonus”).⁵ The FAR bonus may be awarded instead of a density

² Gov. Code, § 65915, subd. (a)(3)(D)(ii).

³ *Ibid.*

⁴ Legis. Counsel’s Dig., Sen. Conc. Amends. To Assem. Bill No. 2753 (2017-2018 Reg. Sess.).

⁵ “FAR bonus” means an allowance for an eligible housing development to utilize a FAR over the otherwise maximum allowable FAR permitted under the applicable zoning ordinance and land use element.

bonus upon the developer's request, although a developer may still request incentives and concessions under the density bonus law. Under AB 2372, a developer may choose an FAR bonus (if the City elects to adopt a FAR bonus ordinance) or Density bonus, but not both.

The Legislature's stated intent in adopting this law is that "[d]etermining the building's allowable size based on FAR rather than density, incentivizes the production of more units, particularly smaller and more economical units."⁶ A FAR bonus may incentivize a greater number of smaller units where, for example, a multifamily housing development cannot build up to the maximum allowable density because doing so would exceed its FAR limit under the CMC. This may be the case where a developer provides amenities, like a gymnasium or common area that exhausts the allowable FAR.

The statute requires that the ordinance, if adopted, provide that a FAR bonus is limited to an "eligible housing development," defined as:

1. A 5+ unit multifamily housing development,
2. Located within an urban infill site within a transit priority area or within one-half mile of a major transit stop,
3. Zoned to allow residential use or mixed-use with a minimum planned density of at least 20 units per acre and without any land zoned for low density residential use or exclusively non-residential use,
4. The applicant and development satisfy the replacement requirements in existing density bonus law,
5. Has at least 20% of units offered to very low or extremely low income households with a rent restriction of at least 55 years, and
6. Compliant with the height requirements of the underlying zone.

The Density Bonus Law grants developers incentives, concessions, and waivers that may authorize them to exceed existing height requirements. Under the FAR Bonus Law, exceeding a height limit would not be permitted, even though developers are entitled to other types of incentives, concessions, or waivers, as applicable.

Under the FAR bonus statute, the ordinance, if adopted, must also require:⁷

1. Development impact fees to be based on square footage rather than a per unit basis,

⁶ Sen. Rules Com., Off. of Sen. Floor Analyses, 3d reading of Assem. Bill No. 2372 (2017-2018 Reg. Sess.) as amended Aug. 15, 2018.

⁷ Gov. Code, § 65917.2, subd. (b).

2. The parking ratio to be limited to 0.1 parking spaces per unit for moderate, low, and very low income units, or 0.5 parking spaces for market rate units, and
3. The FAR Bonus to be calculated using the following formula: Gross Residential Floor Area = (Existing FAR) x (Site Area/43,560 sq ft) x (2,250 sq ft).

This law provides developers an alternative if the City adopts an FAR Bonus Law. It is an optional model for an ordinance, and does not prevent the City “from providing a floor area ratio bonus under terms that are different from those set forth in this section.”⁸ If the City adopts an FAR bonus ordinance, it must maintain its existing traditional density bonus ordinance, and developers have the choice of whether to take advantage of one or the other, depending on a project’s characteristics.

B. Streamlining and Removing Barriers to Housing Production

AB 3194 (Assembly Member Tom Daly) – Housing Accountability Act Amendments.

The Housing Accountability Act (HAA), also known as the “Anti-Nimby” legislation, restricts a city’s ability to disapprove, or require density reductions in, certain types of residential projects.⁹ The purpose of the HAA is to help ensure that the City not reject or make infeasible middle-, low-, and very low-housing developments, including emergency shelters, that contribute to meeting the City’s state-defined housing need as determined by Housing Element Law¹⁰ without a thorough analysis of the economic, social, and environmental effects of that action and the making of specified findings by the City.

In 2017, the Legislature passed, and the Governor signed, three bills making significant changes to the HAA. Under AB 678 and SB 167, the HAA was strengthened to increase the burden on local jurisdictions when denying a housing project by imposing fines for a violation of the HAA, and expanding judicial remedies for violations of the HAA. Assembly Bill 1515 changed the standard the court must use in reviewing the denial of a housing development by providing that a project is consistent with local planning and zoning laws if there is substantial evidence that it is consistent.

⁸ Gov. Code, § 65917.2, subd. (g)(1)(B).

⁹ Gov. Code, § 65589.5.

¹⁰ Gov. Code, § 65588.

Assembly Bill 3194, which became effective in January 2019, makes some notable changes to the HAA. Specifically, this law:

1. Declares the intent of the Legislature to establish a high threshold for a City to justify denying or conditioning a moderate-, low-, or very low-income housing project for health or safety reasons, that the conditions for denying a project under the HAA are very rare, and that regularly occurring planning issues generally do not rise to the level of a “specific, adverse impact upon the public health and safety.”¹¹
2. Provides, for purposes of the HAA, that a housing development shall not be found inconsistent with, or not compliant with, the applicable zoning ordinance, and shall not require the site to be rezoned, if the existing zoning ordinance does not allow for the maximum allowable density under the General Plan’s housing element or land use element as long as the plan was adopted or updated within the past 10 years.¹²
3. The law further specifies that if a conflict exists between the housing element and the land use element, that the housing element shall prevail, regardless of whether the housing element was adopted or updated at an earlier date.¹³

Although the City need not amend its zoning code, planning staff and the Planning Commission and City Council will need to evaluate these new standards as part of their review process for proposed housing developments. As now amended, the HAA requires the City to make at least one of the specific findings specified in Government Code section 65589.5, subdivision (d) if the City denies, or conditionally approves in a manner that renders it infeasible, a qualifying proposed housing development for very low, low, or moderate income households, in addition to any other findings required by state law or the Calabasas Municipal Code.

SB 765 (Sen. Scott Wiener) – SB 35 Amendments.

This law makes a series of cleanup revisions to SB 35, the major housing project streamlining law enacted in 2017, which requires localities to grant a streamlined ministerial approval to housing projects that meet the City’s objective standards, commit to provide prevailing wage labor, and provide a specified amount of affordable housing, among other criteria. The Legislature makes an explicit statement that CEQA

¹¹ Gov. Code, § 65589.5, subd. (a)(3).

¹² Gov. Code, § 65589.5, subd. (d).

¹³ Gov. Code, § 65589.5, subd. (d).

does not apply to the agency's determination of whether an application for a development is subject to the streamlined ministerial approval process – eliminating one argument housing opponents have used to try to avoid the effect of SB 35.¹⁴ In addition, the Legislature stated that “it is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply.”¹⁵

AB 2162 (Chiu and Daly) – Supportive Housing Use “By Right.”

This law makes certain types of supportive housing projects a use-by-right in multi-family and mixed-use zones, including non-residential zones that permit multi-family uses.¹⁶ Such projects must fall under the CEQA ministerial exemption, and do not require CEQA review. Supportive housing projects are those that do not limit occupants' length of stay, are occupied by target populations (e.g. persons with disabilities and homeless families or youth) and are linked to services that assist with housing retention and job attainment.¹⁷

To qualify under AB 2162, the proposed supportive housing developments must meet certain requirements. These include:

1. Units must be subject to an affordability restriction for 55 years;
2. 100 percent of units, except the manager's unit, must be dedicated to lower-income households;
3. At least 25 percent of the units or 12 units, whichever is greater, must be restricted to residents in supportive housing. If a development has fewer than 15 units, 100 percent of the units must be restricted to residents in supportive housing;
4. Certain percentages of non-residential floor area must be dedicated to onsite supportive services;
5. Any dwelling units on the site of the supportive housing development must be replaced; and
6. Each dwelling unit must have at least one bathroom and a kitchen.¹⁸

The statute does not restrict the City's ability to apply development standards and procedures to these developments, but the standards must be the same as those

¹⁴ Gov. Code, § 8698.4, subd. (a)(4).

¹⁵ Gov. Code, § 65913.4, subd. (l).

¹⁶ Assem. Bill No. 2162 (2017-2018 Reg. Sess.) (Stats. 2018, Ch. 753).

¹⁷ Health & Saf. Code, § 50675.14.

¹⁸ Gov. Code, § 65651.

applied to other multi-family developments in the same zone. Most notably, this law states that permits issued under this section are non-discretionary, so they are not subject to CEQA review.¹⁹

C. Planning, RHNA and Fair Housing Goals

SB 828 (Wiener) and AB 1771 (Bloom) - RHNA Process Amendments.

These two new laws make a number of changes to the Regional Housing Needs Assessment (RHNA) process with an intent for the state to obtain more data in order to more accurately and equitably reflect job growth and housing needs. The new amendments revise the data that the various councils of governments, including the Las Virgenes-Malibu Council of Governments, must provide to HCD as part of the RHNA process. RHNA requirements are developed as part of the regional plan process, providing minimum housing zoning targets by income group for an eight-year planning cycle. Jurisdictions must show in their housing elements that they have sufficient land zoned for housing development to accommodate these targets.

SB 828 made changes to the housing element and RHNA process, and specifically affects the method for determining housing need for each jurisdiction. This law made the following changes:

1. Added several additional factors to the current data methodology used to determine RHNA, now including:¹
 - Housing cost burden, defined as the share of households by income group paying more than 30% of income for housing;
 - The “rate of cost burdened [households] for a healthy housing market,” defined relative to the average for comparable regions throughout the nation;
 - The “overcrowded rate for a healthy housing market,” defined as the average for comparable regions throughout the nation (overcrowding continues to be defined as more than one person per room);
 - The vacancy rate for a healthy housing market, defined as between 5% and 8% for both rental and ownership housing; and
 - Projected household income growth rates.

¹⁹ Gov. Code, § 65650, subd. (b).

2. Requires HCD to include in its RHNA methodology allowances for adjusting RHNA based on certain factors, including the percentage of overcrowded renters, vacancy rates, and the percentage of households that are cost burdened.
3. Requires that the final regional allocation plan for RHNA demonstrate efforts to reverse racial and wealth disparities by assigning additional weight for the distribution of RHNA for all income levels, particularly for low- and very low-income households, to local governments that meet both of the following criteria:
 - o Have median employed household incomes above the 50th percentile for the region, and
 - o Contain a regional job center, as determined by the regional COG, or that contain high quality public transportation that connects to a regional job center.

AB 1771 makes the RHNA process clearer in terms of how the methodology is created and applied and how a RHNA allocation plan is established. Notable proposed changes in the bill include the following:

- The RHNA allocation plan must show that it furthers specific objectives established in the statute, rather than simply being consistent with them. The first two objectives have been largely retained:
 1. Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, so that each jurisdiction receives an allocation of units for low- and very low income households.
 2. Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

Objectives 3 and 4 were updated, with added requirements to consider availability of housing units affordable to low wage workers and to adjust RHNA allocations to jurisdictions based on their share of households by income relative to the county.

Objective 5 was added to address access to opportunity and fair housing:

3. Promoting an improved intraregional relationship between jobs and housing, including an improved balance between the number of low-wage jobs and the number of housing units affordable to low-wage workers in each jurisdiction.

4. Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, and allocating a higher proportion of housing need to an income category when a jurisdiction already has a disproportionately low share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial census.
 5. Increasing access to areas of high opportunity for lower-income residents, avoiding displacement and affirmatively furthering fair housing.
- Requires that COGs develop their RHNA allocation methodology in consultation with HCD rather than seeking HCD's advice later in the process.
 - Adds transparency requirements to the RHNA process including online posting and distribution of data used to develop the methodology, explanation of how the methodology furthers the RHNA objectives, and how the methodology incorporates various factors specified by state law.
 - Factors to be used in the methodology that are to be added or updated include:
 - Low wage jobs within a jurisdiction and the housing units affordable to workers at those wage levels as well as how many jobs were added at each wage level in the last planning period.
 - Percentage of households by income level cost burdened at 30% or more of household income and at 50% or more of household income.
 - The rate of overcrowding.
 - COGs are able to include additional factors as long as they either advance the RHNA objectives or, if they do not specifically advance those objectives, must not undermine them and must be found to be necessary for health and safety.
 - The law removes "market demand for housing" as a factor to consider in the RHNA methodology.
 - The law specifies the process for public release along with review of the draft RHNA allocation methodology by HCD as well as the process for final adoption by the COG. HCD will have 60 days following the submission of the draft to determine if it furthers the RHNA objectives. If HCD finds that the methodology does not further the objectives, the COG has two options:
 1. Revise the methodology in accordance with HCD's findings and adopt a final regional allocation methodology.
 2. Adopt a final regional allocation methodology without revisions and include within its resolution of adoption written findings as to why the

COG believes that the methodology is consistent with the objectives despite HCD's findings.

Upon either action the COG must provide notice of adoption of the methodology and shall publish the methodology on its Web site. The resolution approving the final RHNA plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan and furthers the RHNA objectives.

- The law alters the process for appeals of the RHNA by jurisdictions, including shortening or specifying timelines, requiring supporting documentation and consistency with the RHNA objectives, as well as transparency including public notification and release of supporting documents for the final appeal decision.
- The law removes the ability of two or more governments within a region to make an agreement on an alternate distribution of RHNA between themselves.

Assembly Bill 1771 provides more structure for the allocation process, which enables the City to take a more active role in accommodating RHNA. Of particular note for Calabasas, the focus on the amount of low-wage jobs and housing for those income levels could increase the RHNA allocation for high income communities with significant service industry jobs, but relatively few affordable units for those workers.

CONCLUSION

In sum, these laws continue a trend towards increasing the expectations for local governments to make progress toward approving sufficient housing to address the state's housing crisis. We will continue to track HCD guidelines implementing these laws and the anticipated RNHA development guidelines SCAG and LVMCOG for their application to and implementation in the City's development approval processes.