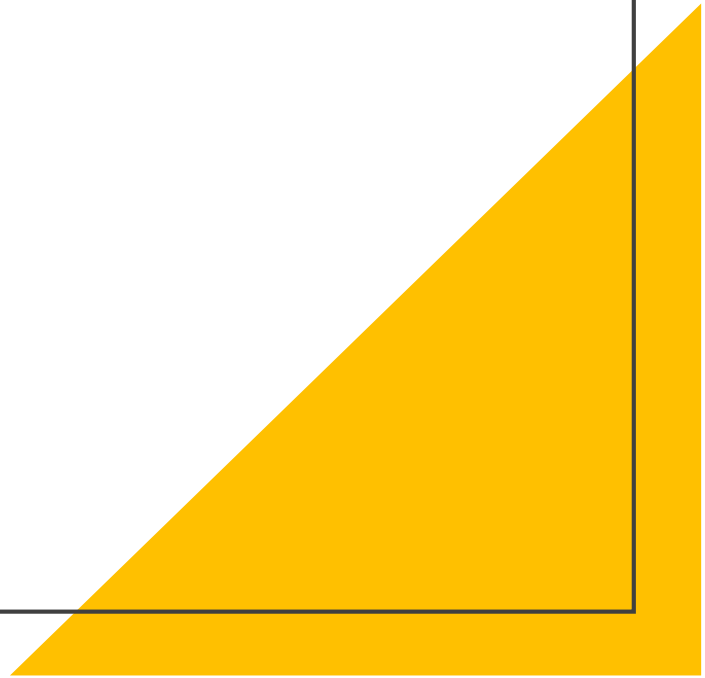


2023 Year-End Legislative Report: Housing & Land Use

City of Calabasas

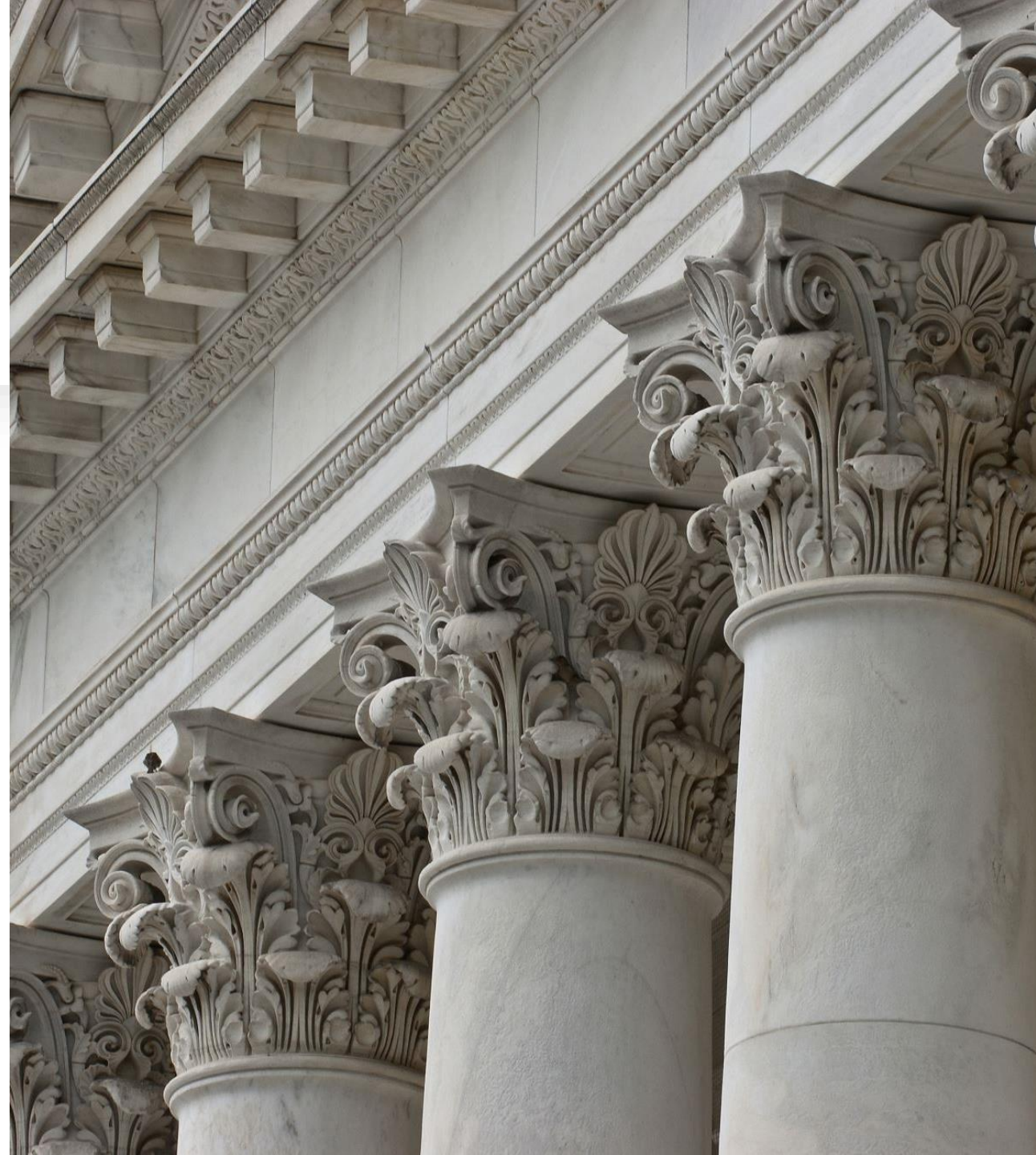
February 1, 2024

Vernetra Gavin, Deputy City Attorney



Summary of Legislative Action

- The Legislature introduced 2,066 bills and approved 1,046 bills
- October 14, 2023, was the last day for the Governor to act on bills passed by the Legislature
- Governor Newsom signed 890 bills and vetoed 156 (~15%)



AB 1332: ADU Pre-Approval Program

Adopt a process for pre-approval of ADU plans by January 1, 2025.

Pre-approval of ADU plan does not constitute approval of an application.

The application for a pre-approved plan is subject to the same application processing timelines and fees as the primary ADU application.

Unlike other ADU applications, pre-approved plans would not be site specific.

Pre-approved plans and the applicant's contact information must be posted to website

Housing Laws to Address Crisis

- **State Density Bonus Law**
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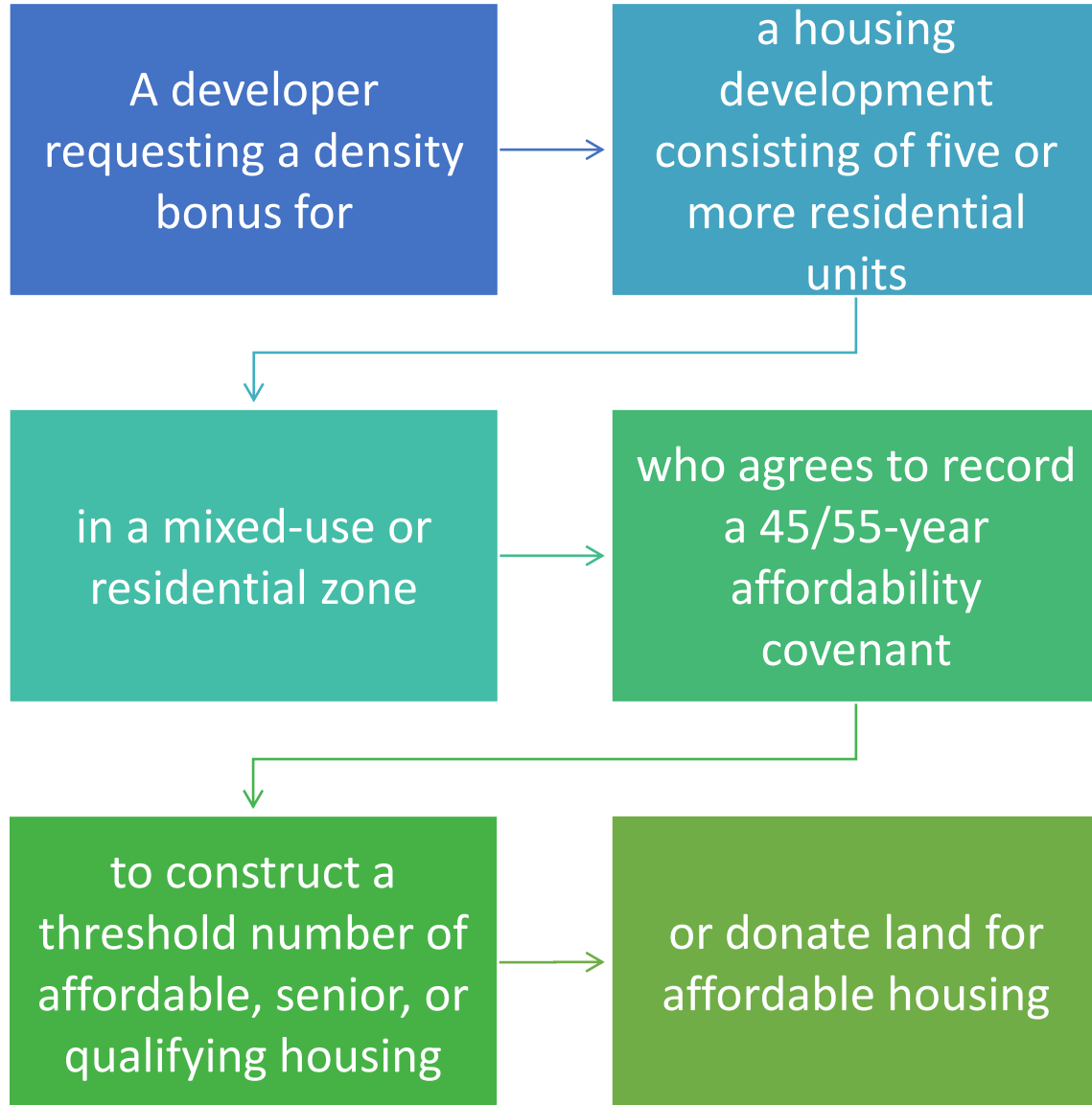
Benefits to Developer under State Density Bonus Law

More units per acre

Incentives/Concessions

Waiver or reduction of
development standards

Preferential parking standards



Who's Eligible for a Density Bonus?

Minimum Eligibility Thresholds

- At least 5 percent of the units are for rental or sale to very low-income households;
- At least 10 percent of the units are for rental or sale to lower income households;
- At least 10 percent of the units are for sale to moderate-income households;
- A market-rate senior citizen (55+) housing development with at least 35 dwellings;
- At least 10 percent of the units are for transitional foster youth, disabled veterans, or homeless persons (rented at very low-income rates) ; or
- At least 20 percent of the units are for lower-income student housing.

Household Income Thresholds for LA County

Threshold	Family of 4 Income	Affordable Rent
Extremely Low	\$37,850	\$737 + Utilities
Very Low	\$63,050	\$1,228 + Utilities
Low	\$100,900	\$1,473 + Utilities
Median	\$98,200	
Moderate	\$117,850	\$2,700 + Utilities

Density Bonus

Household Income Category	Threshold	Density Bonus
Very Low	5%	20%
Very Low	10%	32.5%
Very Low	15%	50%
Very Low	80–100%	80%
Low	10%	20%
Low	17%	30.5%
Low	24%	50%
Low	80–100%	80%
Moderate	10%	5%
Moderate	20%	15%
Moderate	30%	25%
Moderate	44%	50%

AB 1287: Super Density Bonus

- Applicants are entitled to an additional density bonus if:
 - they satisfy the following thresholds:
 - 15% of total units for very low-income households or
 - 24% of total units for low-income households or
 - 44% of total units for moderate-income households
 - AND they provide a certain number of additional:
 - Very-low income units or
 - Moderate-income units

Super Density Bonus Calculations

Household Income Category	Threshold	Density Bonus
Very Low	5%	20%
Very Low	6%	23.75%
Very Low	7%	27.5%
Very Low	8%	31.25%
Very Low	9%	35%
Very Low	10%	38.75%
Moderate	5%	20%
Moderate	8%	27.5%
Moderate	10%	32.5%
Moderate	11%	35%
Moderate	14%	46.25%
Moderate	15%	50%

AB 1287: Super Density Bonus

Household Income Category	Additional Threshold	Density Bonus
Very Low @ 15% + Very Low @	5% (Total = 20%)	50% + 20%= 70%
Very Low @ 15% + Very Low @	10% (Total = 25%)	50% + 38.75%= 88.75%
Very Low @ 15% + Moderate @	5%	50% + 20%= 70%
Very Low @ 15% + Moderate @	15%	50% + 50%= 100%
Low @ 24% + Very Low @	5%	50% + 20%= 70%
Low @ 24% + Very Low @	10%	50% + 38.75%= 88.75%
Low @ 24% + Moderate @	5%	50% + 20%= 70%
Low @ 24% + Moderate @	15%	50% + 50%= 100%
Moderate @ 44% + Very Low @	5%	50% + 20%= 70%
Moderate @ 44% + Very Low @	10%	50% + 38.75%= 88.75%
Moderate @ 44% + Moderate @	5% (Total = 49%)	50% + 20%= 70%
Moderate @ 44% + Moderate @	15% (Total = 69%)	50% + 50%= 100%

Incentives & Concessions

- A reduction in site development standards or a modification of zoning code or architectural design requirements that results in identifiable and actual cost reductions;
- Approval of mixed-use zoning in conjunction with the housing project if the inclusion of commercial, office, or industrial uses will reduce the cost of the housing project and such nonresidential uses are compatible with the housing project and existing and planned development in the area; and
- Other regulatory incentives or concessions proposed by the local agency or the developer that result in identifiable and actual cost reductions to provide for affordable housing costs or rents.

AB 1287: Incentives and Concessions

Household Income	Percentage of Affordable Units in Project	Concession/Incentive
Very Low-Income	5%	1
Very Low-Income	10%	2
Very Low-Income	15%	3
Very Low-Income	16%	4
Low-Income	10%	1
Low-Income	17%	2
Low-Income	24%	3
Moderate-Income	10%	1
Moderate-Income	20%	2
Moderate-Income	30%	3
Moderate-Income	45%	4
20% affordable to low-income students		1
Fully affordable project with 80% lower-income households minimum		5

Eligibility for Waivers

- If compliance with a development standard would physically preclude construction of a housing development utilizing the density bonus and concessions or incentives, the applicant may submit a proposal for a waiver or reduction of the development standard.
- There is no maximum limit on the number of waivers an applicant may request.

Development Standards

- Density*
 - (units per acre)
- Height Limitation
 - (max. number of feet)
- Parking Ratio
 - (parking spaces per bedroom)
- Setback Requirements
 - (front, side, & rear yard)
- Floor Area Ratio
 - (main structure floor area / lot area)
- Lot Coverage
 - (all structures floor area / lot area)
- Open Space Requirements
 - (% of building area)
- Minimum Lot Size
 - (feet per lot)



Housing Laws to Address Crisis

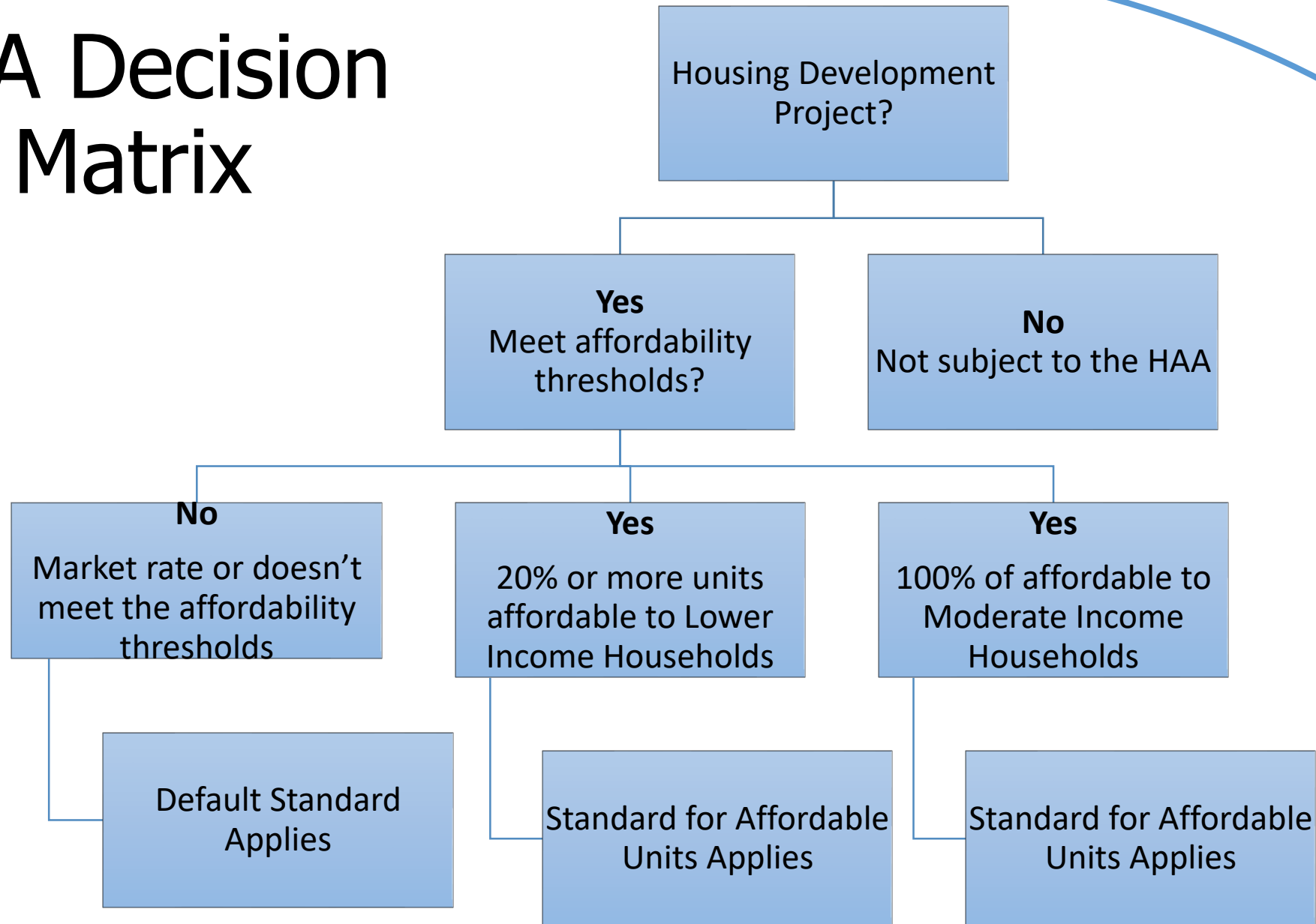
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Definition: Housing Development Project

- HAA definition of housing development project:
 - Residential units only.
 - Mixed-use developments - at least two-thirds of the square footage designated for residential use.
 - Transitional housing or supportive housing.



HAA Decision Matrix



Default Standard of Review

No Affordable Units

- Project is consistent with **objective** general plan, zoning, subdivision, and designs standards & criteria
 - City cannot disapprove the project or impose conditions that reduce its density unless it makes both of the following findings:
 - There is a specific, adverse impact upon the public health or safety; **and**
 - There is no feasible method to satisfactorily mitigate or avoid the adverse impact

CEQA Still Applies

“Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).”

AB 1633: Disapprove of a Housing Development Project

- Vote to disapprove an application, including any required land use approvals or entitlements necessary for the issuance of a building project;
- Fail to comply with specified time periods for approving or disapproving development projects
- Fail to meet timelines for issuance of post-entitlement permits
- Fail to make determination of whether the project is exempt from CEQA or commits an abuse of discretion under certain conditions
- Fail to adopt a negative declaration or addendum for the project, to certify an EIR, or approve another comparable environmental document, under certain conditions

“Objective” Defined

- “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.”
- E.G.- Numeric standards are objective
- E.G.- Not objective- “If height varies by more than 1 story between buildings, *a transition or step in height is necessary.*”

Standard of Review for Projects with Affordable Units

- City cannot disapprove unless one of the following findings are made:
 1. Compliant housing element **and** met the RHNA allocation for all income categories proposed for the project
 2. Project has a specific, adverse impact upon the public health or safety, and there is no feasible method to mitigate or avoid impact
 3. Denial is required to comply with specific state or federal law, and there is no feasible method to comply
 4. On land zoned for agricultural or there is inadequate water or sewer to serve the project
 5. Project is inconsistent with both zoning and general plan land use designation

Types of Discretionary Approvals

- The standards of review apply to all discretionary land use entitlements of a housing development project:
 - Subdivision Map approvals (Parcel Map and Tentative Tract Map)
 - Conditional Use Permits
 - Design Review Permits
 - Site Plan Review
 - Other Discretionary permits



Determination of Compliance

- *If certain requirements are met*, the City is required to determine whether the housing development project is inconsistent with the objective development standards within:
 - 30 days of an application being determined complete, if 150 units or less
 - 60 days of an application being determined complete, if more than 150 units

Expanded Legal Remedies

Who can initiate litigation?

- The applicant;
- Any person who would be eligible to apply for residency in the project; or
- A housing organization.

If liable, Court may:

- order the City to approve the project within 60 days.
- Grant attorneys' fees and costs.

Fines for non-compliance with Court Order

- If action not taken within 60 days, the court may issue a minimum \$10,000 fine per housing unit.
- If the inaction was in bad faith, the minimum fine award may be multiplied by five.

HCD can also refer the matter to the Attorney General

AB 1485: Intervention by Attorney General

- “In any suit brought to enforce either this article or any state law listed under subdivision (j) of Section 65585, the department and the office of the Attorney General shall each have the unconditional right to intervene under subparagraph (A) of paragraph (1) of subdivision (d) of Section 387 of the Code of Civil Procedure. The office of the Attorney General shall have this unconditional right whether intervening in an independent capacity or pursuant to a notice or referral from the department.”

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Housing Crisis Act (SB 330)



Only applies to “affected cities” – Cities which HCD determines are located within an urbanized area or urban cluster



Substantive amendments to restrict local development standards and demolition of residences



Procedural amendments to housing development project applications

Five Hearing Rule

- If a housing development project + has a complete application + that complies with objective standards, then:
- The City is limited to five hearings in connection with the approval of that housing development project
- Includes (1) public hearings, workshops, appeals, and continuances, (2) conducted by the City Council, Planning Commission
- Excludes (1) legislative approvals, (2) applicant-led meetings, (3) hearings before an application is determined complete, and (4) hearings held by other legislative bodies

No Net Loss Intensity

Existing Law (Gov. Code § 65863(c)(1))

- The City cannot reduce general plan or zoning densities of residential parcels, unless the City identifies other sites where it can proportionally increase densities.

New Law (Gov. Code § 66300(b)(1)(A))

- The City cannot reduce the building intensity of residential parcels below that in effect as of January 1, 2018, unless the City identifies other sites where it can proportionally increase intensity

HCD-Approved Moratoria

Existing Law (Gov. Code § 65858)

- City can adopt urgency measure to protect public safety, health, and welfare by blocking approval of entitlements

New Law (Gov. Code § 66300(b)(1)(B))

- City cannot adopt a development policy, standard, or condition that would impose a moratorium on housing development, unless approved by HCD

Objective Design Review Standards

Existing Law (Gov. Code § 65858(d))

- City cannot disapprove an affordable housing project due to design review standards, unless it makes written findings

New Law (Gov. Code § 66300(b)(1)(C))

- City cannot impose or enforce design standards established after January 2020 that are not objective

Restrictions on Development Standards

- Cannot adopt any provision that:
 - Limits the number of entitlements
 - Caps the number of housing units
 - Limits the population

No Net Loss of Housing Units

City cannot approve demolition of residential dwelling unit unless the project creates at least as many residential dwelling units as demolished

More stringent requirements for protected units, which include units that:

Are subject to affordability covenants, ordinances, or laws;

Are subject to local rent or price controls;

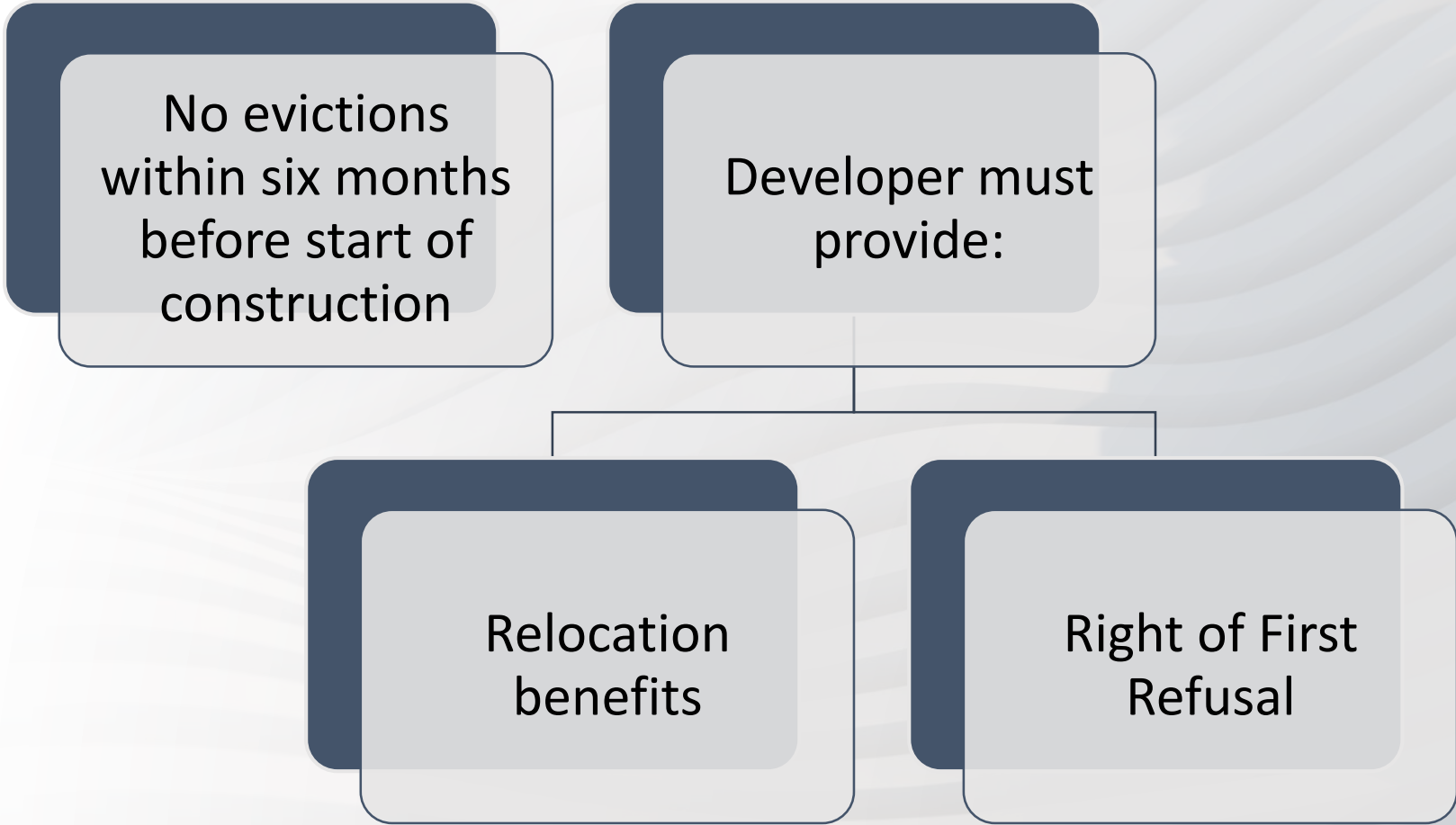
Are/were occupied by very low/low-income households in past 5 years

Withdrawn from rental market under the Ellis Act in past 10 years

3/6/2020

COLANTUONO
HIGHSMITH
WHATLEY, PC

Tenant Protections



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Different Statutes Facilitating Streamlined Approval of Projects

- Accessory Dwelling Unit Law
- AB 803 – Small Home Lot Developments
- AB 2011- Streamlining Affordable Housing in Commercial Zones
- SB 6 – Middle Class Housing Act of 2023
- SB 9 – Urban Lot Splits/ Ministerial Design Review
- **SB 35 – Streamlining Affordable Housing in Residential Zones**

SB 35 Development Conditions

- The Project:
 - Is a multi-family housing development project;
 - Will include deed-restricted affordable units;
 - Is consistent with objective development standards;
 - Is a prevailing wage project with a skilled & trained workforce.
- The Site:
 - Is within an urbanized area or urban cluster;
 - Is within a jurisdiction identified by HCD;
 - Would not require the demolition of certain types of housing;
 - Does not need to be subdivided (under certain circumstances);
 - Has 75% of adjoining parcels developed with urban uses;
 - Has a residential designation in the General Plan & Zoning; and
 - Is not located in a prohibited environment (e.g. wetlands, farmland, etc.)

AB 1490: Extremely Affordable Adaptive Reuse Projects

- Extremely affordable adaptive reuse projects:
 - A multi-family housing development project;
 - Development involves retrofitting and repurposing a residential or commercial building that allows temporary dwelling or occupancy (e.g. motel/hotel) to create new residential units;
 - 100% low income (of that 100%: 50% must be very low income)
- Extremely affordable adaptive reuse project not subject to maximum density, floor area ratio, parking, and open space requirements

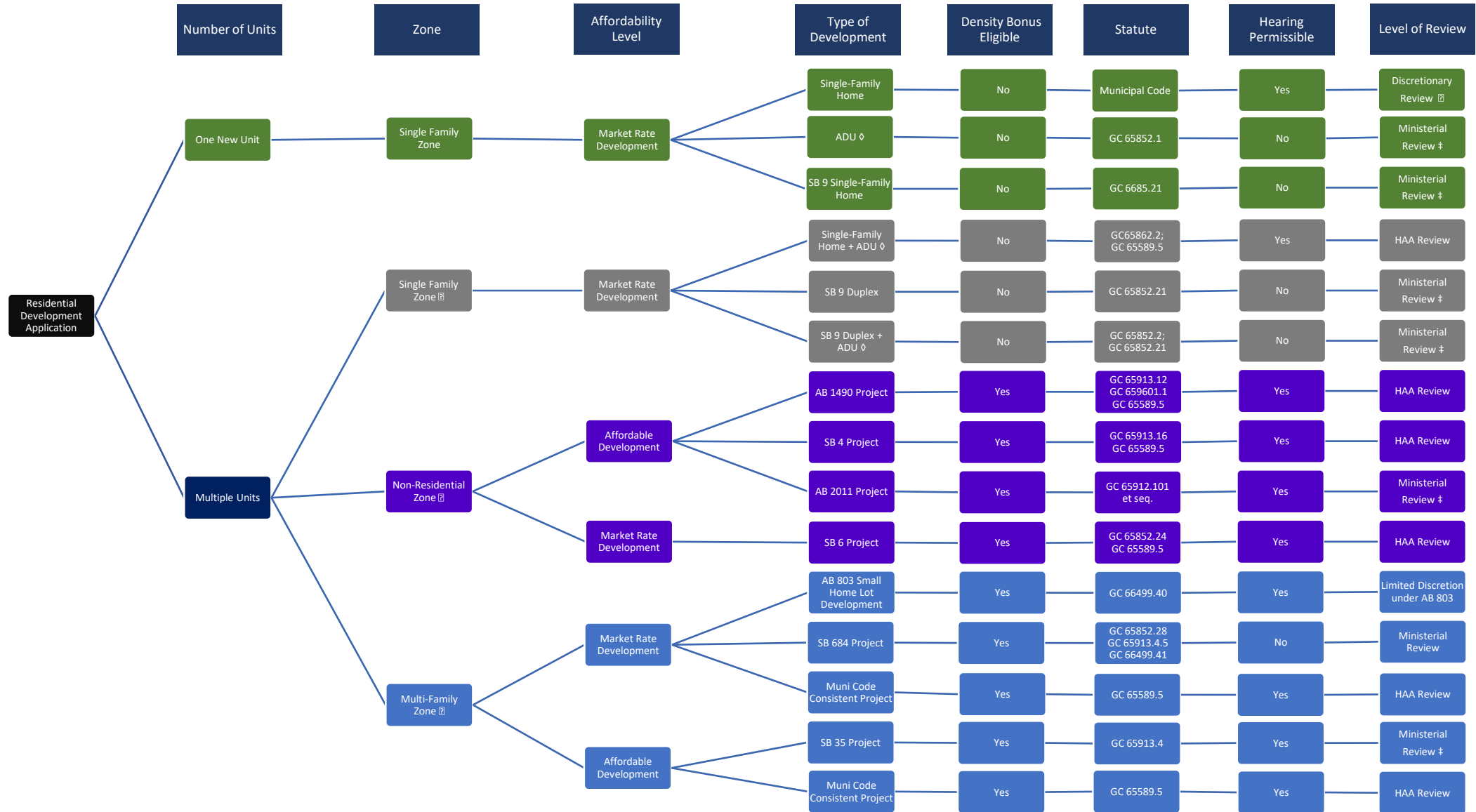
SB 4: Affordable Housing on Faith and Higher Education Lands Act

- A housing development project is a use by right if the following criteria are satisfied:
 - Project on land owned by an independent institution of higher education or a religious institution;
 - All units are for lower income households;
 - Density & Height:
 - In residential zones, can be built up to 20 units per acre with one story above the maximum allowable height
 - In non-residential zones, can be built up to 40 units per acre with one story above the maximum allowable height

SB 684: Medium Density Housing

- Requires ministerial approve, without discretionary review or a hearing, of a subdivision map for a housing development project that meets the following:
 - 10 or fewer parcels of no less than 600 sq. feet
 - 10 or fewer units offered for sale and no greater than 1,750 sq. feet
 - Zoned for multi-family
 - Need to build up to housing element's density
- City can deny ADUs on parcels created pursuant to SB 684 and adopt ordinances to implement its requirements

Residential Housing Development Decision Tree



This chart seeks to clarify the application of different recent legislative actions to streamline and augment housing development. This is intended for general reference and is not intended as legal advice. Please consult your city attorney or special counsel for specific legal advice.