

AGENDA

CITY OF GUADALUPE PLANNING COMMISSION

Tuesday, May 20, 2008

Regular Meeting 6:00 p.m.

City Hall, Council Chambers
918 Obispo Street, Guadalupe, CA 93434

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a City meeting or other services offered by this City, please contact the City Clerk's office, (805) 356-3891. Notification of at least 72 hours prior to the meeting or time when services are needed will assist the City staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

*If you wish to speak concerning any item on the agenda, please complete the Request to Speak form that is provided at the rear of the Council Chambers prior to the completion of the staff report and hand the form to the City Clerk. **Note:** Staff Reports for this agenda, as well as any materials related to items on this agenda submitted after distribution of the agenda packet, are available for inspection at the office of the City Administrator, City Hall, 918 Obispo Street, Guadalupe, California during regular business hours, 8:00 a.m. to 12:00 pm. and 1:00 p.m. to 5:00 p.m., Monday through Friday; telephone (805) 356-3891.*

MEMBERS OF THE PLANNING COMMISSION: Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.

1. **CALL TO ORDER.**
2. **PLEDGE OF ALLEGIANCE.**
3. **ROLL CALL.** Commissioners Monika Huntley, Carl Kraemer, Frances Romero and Chairman Alejandro Ahumada.
4. **CONSENT CALENDAR.** The following routine items are presented for Planning Commission approval without discussion as a single agenda item in order to expedite the meeting. Should a Commissioner Member wish to discuss or disapprove an item, it must be dropped from the blanket motion of approval and considered as a separate item.
 - a. **No items on Consent Agenda.**

5. **COMMUNITY PARTICIPATION FORUM.**

Each person will be limited to a discussion of 3 minutes. Pursuant to provisions of the Brown Act, no action may be taken on these matters unless they are listed on the agenda, or unless certain emergency or special circumstances exist. The Planning Commission may direct Staff to investigate and/or schedule certain matters for consideration at a future Planning Commission meeting.

6. **AMENDMENT TO PROHIBITION ON PARKING OF VEHICLES WITHIN PORTIONS OF THE FRONT YARD.** That the Planning Commission receive a presentation from Staff; conduct a public hearing; and consider Resolution # PC 2008-____, recommending that the City Council approve an Ordinance amending Zoning Code Section 18.60.035, which prohibits parking on portions of front yards in residential areas.

- a. Written Staff Report (Rob Mullane).
- b. Conduct a Public Hearing;
- c. Planning Commission discussion and consideration;
- d. It is Recommended that the Planning Commission receive a presentation from staff, conduct a public hearing, and consider resolution # PC 2008-____, recommending that the City Council approve an Ordinance amending Zoning Code Section 18.60.035, which prohibits parking on portions of front yards in residential areas.

7. **PLANNING COMMISSION WORKSHOP # 5 : HOUSING LAW AND POLICIES.** That the Planning Commission conduct workshop # 5: Housing Law and Policies.

- a. Written Staff Report (Rob Mullane)
- b. Planning Commission discussion and consideration.
- c. It is Recommended that the Planning Commission conduct workshop # 5: Housing Law and Policies.

8. **PLANNING DIRECTOR'S REPORT.** That the Planning Commission receive the Planning Director's Report.

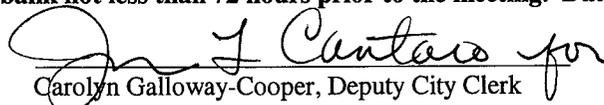
9. **FUTURE AGENDA ITEMS.**

10. **ANNOUNCEMENTS.**

11. **ADJOURNMENT.**

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing Agenda was posted at the City Hall display case, the Water Department, the City Clerk's office, and Rabobank not less than 72 hours prior to the meeting. Dated this 16TH day of MAY, 2008.

By:


Carolyn Galloway-Cooper, Deputy City Clerk

6.

REPORT TO THE PLANNING COMMISSION
May 20, 2008

Prepared By:
Rob Mullane, City Planner

Approved By:
Carolyn Galloway-Cooper

SUBJECT: Amendment to Prohibition on Parking of Vehicles within Portions of the Front Yard

RECOMMENDATION:

- 1) Receive a presentation from Staff
- 2) Conduct Public Hearing
- 3) Consider Resolution # PC 2008-____, recommending that the City Council approve an Ordinance amending Zoning Code Section 18.60.035, which prohibits parking on portions of front yards in residential areas

BACKGROUND:

At the February 19, 2008 Planning Commission meeting, the Commission passed a Resolution recommending that the City Council change the Zoning Ordinance to prohibit parking within unpaved portions of the front yard for residentially zoned properties. The Parking Prohibition Ordinance was brought forward to enhance the aesthetic of the City's residential areas, as well as to provide improved access to residential areas for emergency vehicles and personnel. At the March 25, 2008 City Council meeting, the Council adopted Ordinance CC # 2008-392, which added Section 18.60.035 to the City's Zoning Ordinance and prohibited parking on unpaved portions of the front yard setbacks for residential properties.

At the Development Review Committee meeting on April 23, 2008, the issue was raised that a strict reading of the Ordinance would prohibit property owners that have existing unpaved driveways from parking in the portion of the driveway that is within the front yard setback. In many cases, this would prevent accommodating any off-street parking in the driveway. Staff does not believe that this was the intent of the new parking requirements, and is bringing forth a revision to the Zoning Code to resolve this specific issue.

DISCUSSION:

Changing the text of Section 18.60.035 requires a Zoning Ordinance text amendment. Such an amendment is done by Ordinance. The Planning Commission would be acting in an advisory capacity to the City Council for consideration of this Zoning Ordinance amendment. Should the Planning Commission approve the Resolution in support of the

amendment, the draft Ordinance would be brought to the City Council for possible adoption.

As this item was last heard in February, staff provides the following summary of the Ordinance's key components. The Parking Prohibition Ordinance prohibits the parking of vehicles (including recreational vehicles, boats, trailers, and any similar vehicles whether operable or inoperable) on any unpaved portion of a front yard setback. Parking on paved areas within the front yard setback would be allowed. In addition, to prevent the wholesale conversion of landscaping to paved area in the front yards of residential areas, the Ordinance includes a provision requiring that any additional paving of the front yard setback first obtain a Conditional Use Permit. In considering an application for a Conditional Use Permit, the Planning Commission would consider the aesthetic impact of additional paving as well as potential access problems for emergency vehicles and personnel. Additional paving would not be permitted to reduce the landscaped area in any front yard to less than 33% of the front yard setback.

Options

As discussed above, it has recently come to the attention of City staff that a strict reading of the newly enacted Ordinance prohibits parking on any unpaved surface within the front yard of a residentially zoned property. This is the case even for unpaved (dirt or gravel) driveways. As currently written, if an owner of a property with an unpaved driveway wishes to park in the front portion of this driveway, they would need to pave the portion of the driveway in the front yard setback. Otherwise, they would be in violation of the Zoning Code. For some properties with short driveways this restriction applies to the entire length of the driveway. For other properties with longer driveways providing access to a garage or parking area in the rear of the building, the first 20 feet of the driveway would be subject to this prohibition.

Option 1: no change to the Front-Yard Parking Restriction Ordinance

The first option is to leave the Ordinance as currently worded. This option would require residential property owners with unpaved driveways wishing to park in these driveways to pave the portion of their driveway within the front yard setback, generally the first 20 feet. Without such paving, parking in the front portion of the driveway would be a zoning code violation subject to a citation, just as if a car was parked in the front lawn.

It should be noted that the Planning Department would not require a minor CUP for any request to pave an existing main driveway, as the paving of the driveway would not be considered "additional paving of the front yard setback" under the rationale that a driveway of normal width is expected to be located within the front yard setback. Nonetheless, in this option, owners with unpaved driveways may decide to avoid the expense of additional paving by parking elsewhere (presumably in the street, in most cases) or would decide to park in the unpaved portion of the driveway in violation of the new parking standards. The City would be obligated to enforce the new Parking Ordinance and bring owners with unpaved driveways into compliance. This would add

to the City's code enforcement workload. Although no comprehensive and systematic survey was done, it is estimated that at least 30 to 40 residentially-zoned properties would be out of compliance with this requirement. Examples of properties within the City that have unpaved driveways are shown in Attachment 3 to this staff report.

Option 2: revision to the Front-Yard Parking Restriction Ordinance

Another option would be to revise the Ordinance to make it clear that main existing unpaved driveways need not be paved and would be exempt from that requirement. Staff has drafted revised text of the Ordinance to allow such an exemption. One issue associated with this option is that to establish a list of which properties would be eligible for the exemption, a photo-survey or other inventory of such properties may be needed. Such a survey may be a component of any forthcoming housing inventory associated with the update of the City's Housing Element or could be done separately by City staff.

The Planning Commission may want to direct additional or alternative text changes to the draft Ordinance. As staff believes that the intent of the new parking restriction was not to prohibit parking in the unpaved portions of existing driveways or prompt the need to pave these areas if currently unpaved, staff has drafted an Ordinance for the Planning Commission's consideration and possible recommendation that makes text changes to the Ordinance. Should the Commission support these changes to the parking regulations, a Resolution stating such support has been drafted for the Commission's consideration. The Resolution is included as Attachment 1, and the draft revised Ordinance is included as Attachment 2 to this staff report.

Next Steps

Should the Planning Commission recommend that the Ordinance be revised by approving the attached Resolution, including any Commission-directed changes, the revised Ordinance would then be brought to the City Council for action. The adoption of an Ordinance is a two step process, with the introduction and first reading of the Ordinance at one meeting, followed by second reading and possible adoption at a second Council meeting. The Ordinance would take effect 30 days following any adoption.

Alternatives to the Recommended Action

Should the Planning Commission select Option 1, or some other alternative, staff would return with a revised Resolution noting the Commission's recommendation on the potential revision to the Parking Prohibition Ordinance.

Attachments:

1. PC Resolution No. 2008-____
2. Proposed Revised Parking Prohibition Ordinance (CC Ordinance 2008-____)
3. Examples of Existing Unpaved Driveways within Residential Areas of the City

AGENDA ITEM:

ATTACHMENT 1

PC RESOLUTION NO. 2008-_____

PLANNING COMMISSION RESOLUTION NO. 2008-_____

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GUADALUPE
RECOMMENDING APPROVAL BY THE CITY COUNCIL OF CC ORDINANCE NO.
2008-___ AMENDING SECTION 18.60.035 OF THE GUADALUPE MUNICIPAL CODE
TO EXEMPT EXISTING UNPAVED DRIVEWAYS FROM THE FRONT YARD
SETBACK PARKING PROHIBITION FOR RESIDENTIALLY ZONED PARCELS**

WHEREAS, the City desires to ensure orderly parking in its residentially zoned areas and to maintain safe and reliable emergency access to residences and other residential buildings; and

WHEREAS, the City Council on March 25, 2008, adopted Ordinance 2008-392, which amended the City's Zoning Code (Title 18 of the Guadalupe Municipal Code) to add Section 18.60.035, which established prohibitions for parking on unpaved portions of front yards for residentially zoned properties; and

WHEREAS, City staff has noted that Section 18.60.035 does not provide an exception for parking of vehicles on unpaved portions of the main driveway serving a property; and

WHEREAS, City planning staff has drafted an ordinance to amend Section 18.60.035 to include an exemption for existing unpaved driveways; and

WHEREAS, the City Planning Commission conducted a duly noticed Public Hearing for this item on May 20, 2008, and has considered all written and verbal testimony; and

WHEREAS, the amendment of this Section of the Zoning Code is to provide a minor clarification to an existing regulation and can be found exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15061 of the State of California CEQA Guidelines;

AND WHEREAS, the City Planning Commission has reviewed the draft Ordinance to amend Section 18.60.035 at its meeting of May 20, 2008, and finds it consistent with the City's General Plan.

NOW, THEREFORE, BE IT RESOLVED that

1. The Planning Commission of the City of Guadalupe recommends that the City Council adopt the CC Ordinance No. 2008-___, thereby exempting main existing unpaved driveways from the parking prohibition in certain portions of the front yard setback in the City's Zoning Code (Title 18 of the Guadalupe Municipal Code).

UPON MOTION of Commissioner _____ seconded by Commissioner _____ the foregoing Resolution is hereby approved and adopted the 20th day of May 2008, by the following role call vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

I, **Robert A. Mullane**, Planning Commission Secretary and Deputy City Clerk of the City of Guadalupe, **DO HEREBY CERTIFY** that the foregoing Resolution, being **P.C. Resolution No. 2008-___**, has been duly signed by the Planning Commission Chair and attested by the Planning Commission Secretary, all at a meeting of the Planning Commission, held May 20, 2008, and that same was approved and adopted.

ATTEST:

R. Mullane, Planning Commission
Secretary

A. Ahumada, Planning Commission
Chair

ATTACHMENT 2

**PROPOSED REVISED PARKING PROHIBITION
ORDINANCE**

ORDINANCE NO. 2008-___

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUADALUPE
AMENDING SECTION 18.60.035 OF THE GUADALUPE MUNICIPAL CODE
TO EXEMPT EXISTING UNPAVED DRIVEWAYS FROM THE FRONT YARD
SETBACK PARKING PROHIBITION FOR RESIDENTIALLY ZONED
PARCELS**

**THE CITY COUNCIL OF THE CITY OF GUADALUPE DOES ORDAIN AS
FOLLOWS:**

Section 1. Section 18.60.035 of the Guadalupe Municipal Code is hereby amended to read as follows.

18.60.035—Residential zones—parking prohibited in front yard setback (and street side yard setback for corner lots).

(a) Parking a vehicle or vehicles on any unpaved portion of a front yard setback is prohibited. Notwithstanding the foregoing, parking a vehicle or vehicles on an unpaved driveway existing as of August 1, 2008 shall not be deemed to be a violation of this section. Suitable paved surfaces include solid asphalt or concrete, concrete or brick pavers, or a concrete lattice supported surface such as grasscrete. Such parking is also prohibited on any unpaved portion of a street side yard setback for corner lots. Vehicles as used in this section includes recreational vehicles, boats whether on or off trailers, trailers, and any other similar vehicles whether operable or inoperable. Notwithstanding the foregoing prohibition, a vehicle may be parked on an unpaved portion of a front or street side yard setback for a period not exceeding one hour while actively being washed.

(b) After the effective date of the ordinance adopting this section, any additional paving of the front yard setback (or street side yard setback for corner lots) shall require a minor Conditional Use Permit. In considering an application for a minor Conditional Use Permit, the Planning Commission shall consider the aesthetic impact of any such paving as well as the potential for interference with access to structures for emergency vehicles and personnel from vehicles or other obstructions to be placed on such paving. In no case shall additional paving reduce the total area of landscaping within the front yard (or street side yard setback for corner lots) to less than 33% of the pertinent yard setback area.

(c) Notwithstanding the foregoing, parking on unpaved portions of the street side yard setback may be allowed, if it otherwise meets zoning code standards and if it is screened behind a legally permitted fence or landscaping.

Section 2. Savings and Interpretation Clause. This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state law, including, without limitation, the Government Code of the State of California. If any section, subsection or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections and clauses in regards to other contracts, shall not be affected.

Section 3. Publication and Effective Date. Within fifteen (15) days after passage, the City Clerk shall cause this ordinance to be posted in three publicly accessible locations in the City. The ordinance shall take effect thirty (30) days after adoption.

INTRODUCED at a regular meeting of the City Council held this ____ day of _____, 2008 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

PASSED AND ADOPTED at a regular meeting of the City Council held this ____ day of _____, 2008 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF GUADALUPE

BY: _____
Lupe Alvarez, Mayor

ATTEST:

ATTACHMENT 3

**EXAMPLES OF EXISTING UNPAVED DRIVEWAYS WITHIN
RESIDENTIAL AREAS OF THE CITY**

**City of Guadalupe Planning Commission
Meeting of May 20, 2008**

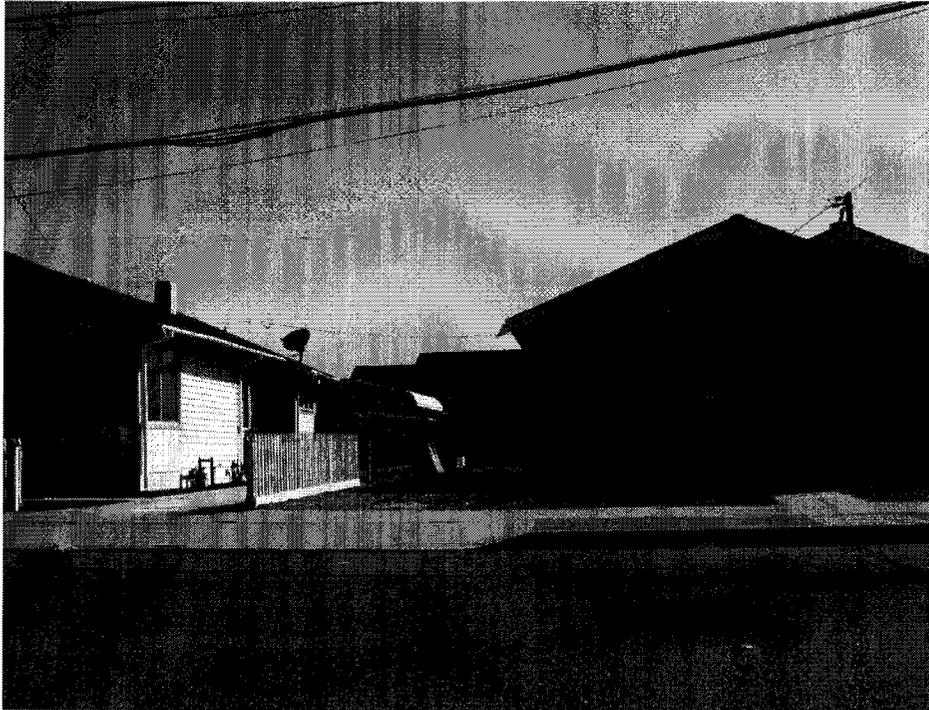
Item # 6, Attachment #3: Examples of Unpaved Driveways in Residential Neighborhoods



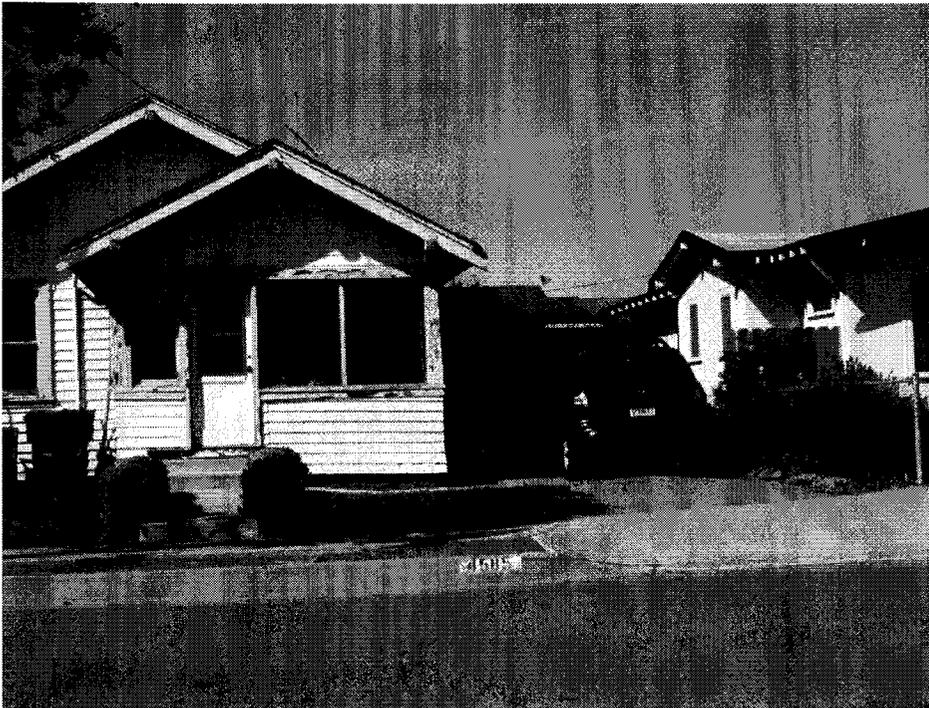
Example # 1: 4240 Gularte Lane



Example # 2: North side of La Guardia Lane



Example # 3: 4584 Eleventh Street



Example # 4: 4585 Eleventh Street

REPORT TO THE PLANNING COMMISSION
May 20, 2008

Prepared By:
Rob Mullane, City Planner

Approved By:
Carolyn Galloway-Cooper

SUBJECT: Planning Commission Workshop #5: Housing Law and Policies

EXECUTIVE SUMMARY:

This is fifth in a series of workshops for the Planning Commission. This workshop will provide an overview of The Planning Framework: the fifth chapter of the *Planning Commissioner's Handbook*, a resource produced by the League of California Cities.

This series of workshops uses the Planning Commissioner's Handbook as a guide for content. The goal of these workshops is to increase each Commissioner's comfort level with the role and responsibilities of the Planning Commission.

RECOMMENDATION:

- 1) Receive a presentation from staff
- 2) Allow for questions and answers on topics presented by staff

BACKGROUND:

The provision of workshops or trainings for the Planning Commission has been a desire of City Management, City Council, and the Planning Commission. Such workshops are valuable all Commissioners, whether new to the Commission or not, as a review of key concepts or to introduce new changes to City procedures, regulations, and State law.

The September 18, 2007 Planning Commission meeting provided an introduction to the first section of the *Planning Commissioner's Handbook* and gave an overview of the Planning Commission's purview. The Planning Commission discussed Section 2 of the handbook on October 16, 2007. Section 3 was discussed on January 15, 2008. Section 4 was discussed on April 15, 2008. This workshop, like previous workshops, is intended to allow a free discussion of the concepts and issues presented.

DISCUSSION:

This workshop focuses on the topics covered in Section 5 of the *Planning Commissioner's Handbook*. Section 5 covers Housing Law and Policies, which includes:

- The Housing Element
- Second Dwelling Units
- Affordable Housing Laws
- Group Homes
- Increasing Housing Density
- Inclusionary Housing
- Mixed-Use Development
- Infill Development
- Preserving Affordable Housing
- Architectural Standards

The Commission previously received copies of the Planning Commissioner's Handbook, and having these handbooks at the meeting will be helpful to follow along with the staff presentation. For the benefit of the public, Chapter 5 of the handbook is included as Attachment 1 to this staff report.

Latest RHNA Allocation

The City's General Plan, which was distributed to the Commission at the January 15, 2008 meeting, includes a brief overview of the City's Housing Element. The Housing Element is the only General Plan element required to be updated on a regular basis (every 5-7 years). The City's Housing Element was last updated in June 2004.

The latest (2007-2014) Regional Housing Needs Allocation (RHNA) was approved by the Santa Barbara County Association of Governments (SBCAG) for formal review at their April 17, 2008 meeting. Guadalupe's draft fair share of the County allocation for this cycle is 88 residential units. The City will have to update its Housing Element to reflect these new housing goals by August 2009.

ATTACHMENTS:

1. Excerpt of Planning Commissioner's Handbook: Chapter 5

AGENDA ITEM:

ATTACHMENT 1

EXCERPT OF THE PLANNING COMMISSIONER'S
HANDBOOK: CHAPTER 5



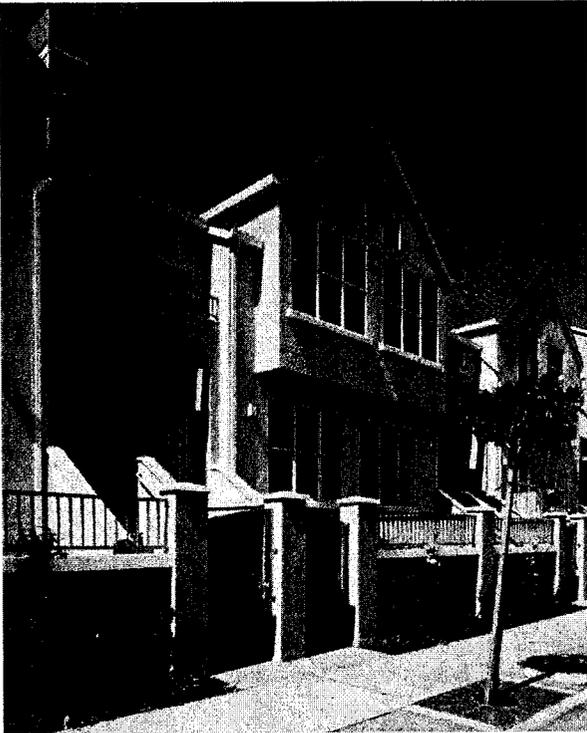
SECTION 5

Housing Law and Policies

THE HOUSING ELEMENT	56
DENSITY BONUSES	58
SECOND DWELLING UNITS	58
LIMITED AUTHORITY TO DENY AFFORDABLE PROJECTS	59
OTHER AFFORDABLE HOUSING LAWS	59
GROUP HOMES	60
INCREASING HOUSING DENSITY	60
INCLUSIONARY HOUSING	60
MIXED-USE DEVELOPMENT	61
INFILL DEVELOPMENT	63
OVERCOMING LOCAL RESISTANCE	63
STREAMLINING PROCESSES	64
PRESERVING AFFORDABLE HOUSING	64
ARCHITECTURAL STANDARDS	65

SECTION 5

Housing Law and Policies



Housing production in California has not kept pace with population and job growth in either quantity or location. With demand for housing greatly outpacing supply, prices have skyrocketed. In fact, the state is home to several of the country's most expensive housing markets. The housing shortage has particularly affected low- and middle-income families. Many of our most essential community members—teachers, firefighters and police officers, service workers, retail clerks, etc.—simply cannot afford to rent units in the communities

where they work, much less purchase a median-priced home. Increasingly, people must live far from work in order to find housing, which has implications both for quality of life and for the environment.

Housing is a critical community asset and a necessity for a healthy and well-balanced community. Communities should strive to provide ample housing in a variety of types and at a variety of prices to serve the needs of all residents. There are numerous reasons to ensure that your community has a diverse housing supply, including:

- The availability of diverse, high-quality housing choices for workers is a significant factor in retaining and attracting businesses.
- Providing quality housing for all segments of society helps achieve social equity.
- The largest portion of most family budgets goes to housing. When more affordable housing is available, people have more money for other necessities, such as health care. People also have more disposable income to spend in the community, which can have big economic payoffs.
- Providing high-quality infill housing ensures more effective use of land and protection of natural and agricultural resources.
- More affordable housing generally leads to higher home ownership rates, which in turn leads to community stability.

As a planning commissioner, you are on the front lines of solving the state's housing problems. Your role is to assure that individual projects further community housing production needs and goals. Moreover, you will likely be involved in the development of local policies that go beyond the minimum requirements imposed by state law. A thorough knowledge of both housing law and policy options—summarized in this section—will serve you well as you tackle housing issues at the local level.

THE HOUSING ELEMENT

The housing element of the general plan is subject to a number of statutory requirements.¹ The housing element must identify and describe how the agency will provide for the existing and projected housing needs of all economic segments of the community (see "Affordable Housing Income Categories" sidebar). The projected housing need includes the local agency's share of the regional housing need as assigned by the Council of Governments (see Regional Housing Needs and the Housing Element, next page). In addition, the housing element must be updated every five years and is subject to review by the state Department of Housing and Community Development (HCD).

Although they generally do not construct housing themselves, local agencies must identify potential sites for future housing and formulate goals, policies, and programs that will promote its development. In general, a housing element must include:

- **Housing Needs Assessment.** The needs assessment must address existing and projected needs. The existing needs assessment must include an analysis of the number of households that must spend over 30 percent of their income for housing, live in overcrowded and substandard conditions, or have special housing needs (including the disabled, senior citizens, and the homeless). Assisted housing units that are at risk of losing their public subsidy must also be identified. The projected needs assessment summarizes by income category the number of new units needed to accommodate the agency's share of the regional housing need.
- **Land Inventory.** The land inventory must identify sites that are zoned and suitable for housing development—including having access to roads, water, sewers and other infrastructure—within the planning period. The agency must demonstrate that it can accommodate its share of the regional housing need by income level, especially its share of housing affordable to low- and moderate-income households.
- **Constraints Analysis.** The constraints analysis reviews governmental and nongovernmental constraints to housing production. Governmental constraints include land use controls, fees and dedications, building codes and their enforcement, and permit and processing procedures. Nongovernmental constraints include the availability of financing, land costs, and construction costs.

AFFORDABLE HOUSING INCOME CATEGORIES

Affordable housing means housing for households of moderate, low, and very low income. These classifications are based on an individual's income in relation to the median income in the area. Calculations are made by the U.S. Department of Housing and Urban Development (HUD) and incorporated into state standards. There are four main classification that are usually addressed in the housing element:

- Very Low—below 50 percent of the area median income
- Low—50 percent to 80 percent of median income
- Moderate—80 percent to 120 percent of median income
- Above Moderate—above 120 percent of median income

¹ See Cal. Gov't Code §§ 65580 and following.

REGIONAL HOUSING NEEDS AND THE HOUSING ELEMENT

The housing element must reflect the local agency’s share of the regional housing need, which is determined through the regional housing needs assessment (abbreviated “RHNA” but pronounced “reena”) process. The RHNA process starts with an estimate of the state’s housing needs across all income levels by the state Department of Finance. This number is then proportionately divided among the state’s regions. The regional number is further divided and assigned to each city and county by regional councils of governments (referred to as “COGs”). Each housing element must include goals and policies for how the local agency will provide its fair share of the state’s housing needs.

The Department of Housing and Community Development (HCD) monitors local implementation of the regional housing needs assessment. Each community must update its housing element every five years and submit it to HCD for approval (also known as “certification”). The element itself must include three main parts:

- **Assessment.** The goals and policies must reflect the agency’s responsibility in contributing to the attainment of state housing goals. This includes an

examination of available resources and possible constraints.

- **Objectives.** The element must state goals, objectives, and policies for the maintenance, improvement, and development of housing consistent with the agency’s fair share for market rate, moderate-income, low-income, very low-income, transitional, and homeless housing needs.

- **Action Plan.** The element must identify the programs to be implemented and sites for the development of housing for all income levels. This section must also address any constraints identified in the assessment and show that the housing element is consistent with the other elements of the general plan.

A housing element is inadequate when it fails to contain a program to conserve the existing stock of affordable housing or fails to identify a sufficient number of sites to accommodate its housing goals. A defective housing element may prevent approval of tentative subdivision maps and other land use approvals because the local government cannot make meaningful consistency determinations.

- **Housing Programs.** The element must identify adequate sites to accommodate the agency’s share of the regional housing need and must identify programs to assist in the development of low- and moderate-income housing; remove or mitigate governmental constraints; conserve and improve the existing affordable housing stock; promote equal housing opportunity; and preserve existing affordable housing units.
- **Quantified Objectives.** The element must estimate the maximum number of units, by income level, to be constructed, rehabilitated, and conserved over the planning period.



Your Leadership Role

This section summarizes the primary laws and policies that apply to local housing programs. In many respects, the law only serves as a minimum standard. Additional policies—such as increasing densities or implementing inclusionary housing programs—can help proactively address local housing needs. Your willingness to engage on this issue will be a signal to developers of your community’s desire to get more units built.

- **Public Participation.** The element must include a description of how the agency has or will engage all economic segments of the community to develop the housing element.

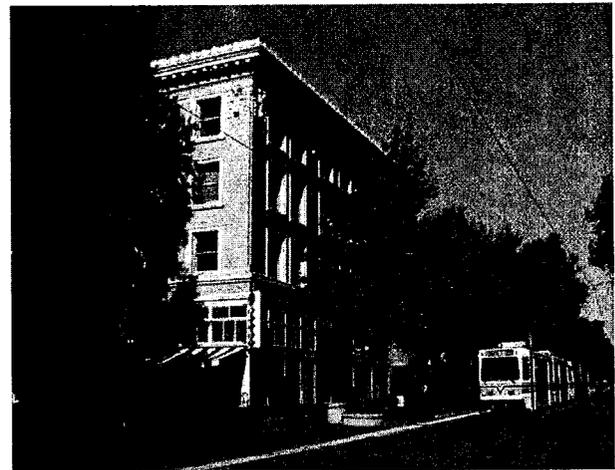
Once a draft of the housing element is completed, it is submitted to HCD for review and approval.² An approved element is presumed valid, which deters legal challenges. Conversely, it is easier for opponents to challenge and delay projects in communities with unapproved elements.³ In addition, certain state funding and other programs are contingent on having a valid housing element. If a local agency decides to adopt its housing element without revising it to address issues raised by HCD in its review, the city must include written findings in its resolution of adoption. The findings must explain why the city feels it has complied with the statute in spite of any issues raised by HCD.

DENSITY BONUSES

Local agencies must adopt a density bonus ordinance⁴ describing how density bonuses will be provided. At a minimum, the state density bonus law requires a 25 percent increase (or “density bonus”) over the number of units allowed under the zoning code when a developer guarantees that 20 percent of the units in a project will be affordable to low-income families. The same is true when the developer guarantees either that 10 percent of the units will be affordable to very low-income households or that 50 percent of the units will be reserved for seniors. For condominiums, the required minimum density bonus is 10 percent if 20 percent of the units will be affordable to moderate-income households.

If a developer agrees to provide enough affordable units to qualify for a density bonus, the local agency must either grant the bonus (and at least one other development concession or incentive) or provide other incentives of equivalent value, including:

- Reducing development standards.
- Modifying setbacks, square footage minimums, parking standards, or design requirements.
- Approving mixed-use projects if the other uses are compatible and will reduce the cost of the housing.



- Providing other incentives or concessions as proposed by the developer that will result in identifiable cost reductions.

The granting of a density bonus does not require, in and of itself, a general plan amendment, zone change, or other discretionary approval, even when the project conflicts with the general plan. A developer who receives a density bonus must agree, and the local agency must ensure, the continued affordability of the affordable units for at least 30 years (or 10 years for condominiums), or longer if required by financing or a subsidy. The use of redevelopment funds, for example, could entail a longer affordability period. Keep in mind that the standards in the state density bonus statute represent minimums. Local agencies may offer additional incentives or tailor guidelines to meet local circumstances.

SECOND DWELLING UNITS

State law encourages the development of second units—also called in-law units, granny flats, or accessory apartments—in residential neighborhoods.⁵ Most local agencies have adopted an ordinance that authorizes second units when certain standards are met. Local ordinances cannot ban second units entirely within their jurisdiction except where such units could endanger the public’s health and safety. However, they may impose reasonable limitations, such as designated locations, height limits, density controls, parking standards, and architectural review.

² See Cal. Gov’t Code § 65585.

³ *Buena Vista Gardens Apartments Assn. v. City of San Diego*, 175 Cal. App. 3d 289 (1985) (permit for a planned residential development could not be approved until the city demonstrated substantial compliance with requirement for housing

development programs to conserve and improve the condition of existing affordable housing stock).

⁴ Cal. Gov’t Code § 65915(c).

⁵ Cal. Gov’t Code § 65852.2.

Once a second unit application meets the standards set in the local ordinance, the permit must be granted ministerially. There is no public hearing or environmental review. Second unit applications are also exempt from local growth control ordinances. Those local agencies that have not adopted their own second unit ordinance must approve projects according to a prescribed set of standards set out in state law.

LIMITED AUTHORITY TO DENY AFFORDABLE PROJECTS

State law prohibits a local agency from denying an affordable housing project—or conditioning it in a way that makes the project infeasible—unless one of the following findings can be made (and supported by substantial evidence):⁶

- The agency has a valid housing element and the project is not needed to meet the agency’s share of the regional housing need.
- The project would have a specific adverse impact on the public health or safety that could not be mitigated without rendering the project unaffordable.
- The action is required under federal or state law and there is no feasible method to comply with that law without rendering the project unaffordable.
- The approval would increase the concentration of low-income households in an area that already has a disproportionate number of lower-income households.
- The project is proposed on land zoned for agriculture or resource preservation and is surrounded on two sides by land being used for such purposes.
- The application was inconsistent with both the zoning ordinance and general plan when it was deemed complete and the jurisdiction has a valid housing element.

This is sometimes referred to as the anti-NIMBY law because it is designed to limit local agency discretion to reject a project that may generate significant neighborhood opposition. The above findings are difficult to make, effectively limiting the ability of a local

jurisdiction to deny a qualified project that complies with all general plan and zoning policies.⁷

OTHER AFFORDABLE HOUSING LAWS

The Legislature has adopted a number of other laws that limit local agency authority to deny or condition projects that include affordable units:

- **Least-Cost Zoning Law.** The least-cost zoning law requires local agencies to zone sufficient vacant land to meet the housing needs of all segments of the population, including low- and moderate-income households (some exceptions apply to urban or built-out communities).⁸ The law also requires that the zoning standards adopted by local agencies allow for the production of housing at the lowest possible cost. There are penalties for noncompliance, including a court order to approve applications related to the zoning deficiency. In one case, a court found that a city had to approve all development applications for a certain type of development—homeless shelters—until it complied with the least-cost zoning law.⁹
- **Local Agency Bears Burden of Proof.** Typically, when local agencies deny a project, their denial is presumed valid and the applicant has the burden of proving otherwise. The opposite presumption applies for denials of affordable housing projects. The local agency bears the burden of proving that the action was reasonably related to the public health, safety, or welfare.¹⁰ This makes it more difficult for the agency to prevail if it is challenged in court.
- **Limited Authority to Adopt Moratoria.** A local agency may generally adopt a temporary moratorium on certain types of development. That authority is limited when applied to development projects that devote one-third or more of the square footage to multifamily housing. An agency may adopt a 45-day moratorium on such projects on a four-fifths vote of the governing body, but any attempt to extend the moratorium requires the agency to make findings supported by substantial evidence that: (1) approval of such projects would have a specific, adverse effect on the health and safety of the community; (2) the moratorium is

⁶ Cal. Gov’t Code § 65589.5.

⁷ Cal. Gov’t Code § 65589.5(d); *Sequoyah Hills Homeowners Ass’n v. City of Oakland*, 23 Cal. App. 4th 704 (1993).

⁸ Cal. Gov’t Code § 65913.1.

⁹ *Hoffmaster v. City of San Diego*, 55 Cal. App. 4th 1098 (1997).

¹⁰ *Hernandez v. City of Encinitas*, 28 Cal. App. 4th 1048 (1994); Cal. Evid. Code § 669.5.

necessary to avoid that impact; and (3) there is no other feasible alternative to mitigate the impact.¹¹

GROUP HOMES

Local agencies have limited authority to regulate smaller group homes (those that serve six or fewer persons at a time). Group homes typically serve people with physical and mental disabilities, adolescents and children, and recovering addicts and alcoholics. Permit denials for smaller group homes will be judged under a stringent standard set by the Fair Employment and Housing Act. The local agency must show that it has a compelling interest in the regulation that denies the permit and that other less discriminatory means are unavailable.¹² Some questions still remain as to the extent to which a local agency may address conditions caused by larger group homes (those serving 7 or more people) and the over-concentration of group homes.

INCREASING HOUSING DENSITY

One of the most basic techniques for expanding the supply of affordable housing is to increase general plan and zoning densities for residential development. This often requires building more multifamily housing units. In jurisdictions that employ this strategy, medium-range densities are commonly around 18 units per acre and high-density ranges usually allow at least 30 units per acre. Increasing allowable densities to these levels reduces the cost per unit, making more units affordable to more people. The more compact development pattern that results provides the added benefit of lower infrastructure costs. Contrary to what you might hear about the market's preference for single-family detached homes, the success of many multifamily projects across the state indicates a strong demand for townhouses and other kinds of higher-density development.

The quality of architectural design is an important consideration in higher-density projects. Many people who have qualms about such projects change their minds when they see high-quality designs. This is where a picture is really worth a thousand words or more. Strict (but clear and easy-to-understand) design guidelines can increase neighborhood acceptance of

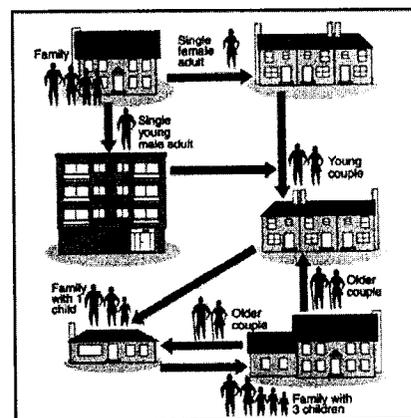
higher density standards (see page 65).

INCLUSIONARY HOUSING

Inclusionary housing, also known as inclusionary zoning, require new housing developments to include a certain percentage of affordable units. More than 100 local agencies throughout the state use this strategy. The typical inclusionary ordinance requires that between 10 and 20 percent of all new units be affordable to moderate-, low-, or very low-income families. Most ordinances will also offer developers incentives like streamlined permitting, funding from a housing trust fund, or density bonuses to offset the cost of providing affordable housing. In most cases the affordability requirements last for at least 30 years, although some are much longer. Local agencies must monitor the units while the affordability requirement is in effect to ensure that they are rented or resold at affordable rates.

Inclusionary ordinances are complex and can be controversial. A number of considerations should go into drafting an inclusionary ordinance, including:

- The percentage of the inclusionary requirement
- Income eligibility criteria for defining affordability
- Pricing criteria for affordable units
- Restrictions on resale and re-rental of affordable units



Compact housing meets people's needs at different points in their lives.

¹¹ Cal. Gov't Code § 65858(c).

¹² Cal. Gov't Code § 12955.8(b).

COMPACT HOUSING: THE NEW AMERICAN DREAM?

- Lower housing and transportation costs
- Living near town and neighborhood centers
- Living close to where the action is: restaurants, cafes, stores, culture, work, etc.
- Access to a greater variety of housing types.
- Developments sometimes include pools, daycare, and protected play areas
- Neighborhoods are more friendly to pedestrians and bicyclists
- Greater sense of community

- Provisions for alternatives to constructing the affordable units, such as in-lieu fees
- Incentives like permit streamlining
- How the program will be monitored and funded
- Design standards that make the affordable units blend in with the surrounding community but still allow the developer to trim some costs



For More Information

For more information on inclusionary housing, consult the *California Inclusionary Housing Reader*, available online at www.ilsg.org/inclusionary.

MIXED-USE DEVELOPMENT

Mixed-use developments combine residential, commercial, retail, and other uses in one project. They vary in size from a single building to an entire neighborhood. Mixed-use development can work in any community. A large city could add residences and shops to an office district, a small town could add second-story apartments above shops to revitalize main street, and a suburb could require that large new developments include more than just single-family homes.

Mixed-use development complements many other planning techniques, including compact design, historic preservation, infill, redevelopment, downtown revitalization, and transit-oriented development. It can reduce reliance on cars by locating jobs, shopping, and residences in one place. With so many amenities in one place, more people tend to be outside more often. Residents can thus get to know their neighbors, which fosters a sense of community and contributes to a safer neighborhood. Many communities have developed successful mixed-use “town centers” that fare very well

on the real estate market and generate needed revenues for the local agency.

Things to consider in encouraging mixed-use development include:

- **Identify Areas.** Underused commercial districts and areas near transit stations are excellent locations for mixed-use development.
- **Amend Zoning and Building Codes.** Consider amending building codes and zoning ordinances that discourage mixed-use developments. For example, revising the zoning code to allow shared parking between residential and commercial uses and providing other flexible development standards can promote the feasibility of mixed uses.
- **Offer Incentives.** Consider offering incentives to encourage mixed-use development. This might include offering a density bonus, relaxing parking requirements, or expediting the processing of permit applications.

Housing Policy Matrix

POLICY	SUMMARY	BENEFITS	CONCERNS
Inclusionary Housing	New projects must include a percentage of affordable units	<ul style="list-style-type: none"> • Little initial cost to agency • Economic integration • Flexible design • Treats projects equally 	<ul style="list-style-type: none"> • Shifts some costs to developers • Requires ongoing administration • Needs good market conditions
Density Bonus	Maximum density is increased in return for affordable units	<ul style="list-style-type: none"> • A good incentive to produce affordable units 	<ul style="list-style-type: none"> • Additional incentives may be needed
Fee Exemptions	Fees are reduced or waived on affordable units or payment is deferred until occupancy	<ul style="list-style-type: none"> • Reduces cost of production 	<ul style="list-style-type: none"> • Cost must be recovered (and cannot be shifted to other developments)
Up-Zoning	Densities are increased in selected neighborhood	<ul style="list-style-type: none"> • Small units are more affordable • Reduced per capita infrastructure costs 	<ul style="list-style-type: none"> • Need to plan for transportation capacity • Design is very important
Second Units	Approval is ministerial in residential neighborhoods	<ul style="list-style-type: none"> • Uses existing infrastructure more efficiently • Uses surplus space • No government expenditure 	<ul style="list-style-type: none"> • Addressing neighborhood concerns • Ministerial process may not allow agency to address special concerns
Rezoning	Unused commercial land is rezoned to residential	<ul style="list-style-type: none"> • Land is usually close to jobs 	<ul style="list-style-type: none"> • Requires land inventory
Mixed-Use Development	Combines various uses in one building or area	<ul style="list-style-type: none"> • Savings from shared parking • Higher return on commercial use can offset low return on housing • Fiscal diversity 	<ul style="list-style-type: none"> • Design is very important • Often requires changes to zoning code
Building Code Revisions	Allows flexibility for rehabilitation of existing structures	<ul style="list-style-type: none"> • Reduces costs • Revitalizes existing neighborhoods • Retains neighborhood character 	<ul style="list-style-type: none"> • May raise disabled access issues, particularly when applied to rehabilitation of old buildings.
Adaptive Reuse	Old buildings are converted to new uses	<ul style="list-style-type: none"> • Places housing in new areas • Less expensive structure and infrastructure costs • Revitalizes existing communities • Can promote historic preservation 	<ul style="list-style-type: none"> • Changing zoning and building codes • Previous use may have been hazardous • Property ownership issues • Financing may be difficult
Zero Lot Line Development	Allows homes to be sited on lot line (no setback)	<ul style="list-style-type: none"> • Works for single-family homes • More useful yard space • Lower development costs • Increases privacy 	<ul style="list-style-type: none"> • Clear review criteria • Resistance in established areas • Parking and general design
Linkage Fees	Fees on commercial development pay for share of new affordable units	<ul style="list-style-type: none"> • Links housing issue to jobs • Creates new revenue source for affordable housing 	<ul style="list-style-type: none"> • Makes development more expensive • Need for nexus study • Requires strong commercial market
Manufactured Housing & Mobilehomes	Prefabricated or mobile structures serve as housing	<ul style="list-style-type: none"> • New designs look like other housing • Substantially lower costs 	<ul style="list-style-type: none"> • Lack of public acceptance • Zoning may need to be altered • Mobile homes not always mobile • "Pad" or site rental issues
Infill Development	Land is developed in existing neighborhoods	<ul style="list-style-type: none"> • Efficient use of infrastructure • Revitalizes older neighborhoods • Reduced development pressure on open space and agricultural lands 	<ul style="list-style-type: none"> • Possibly higher land costs • Potential brownfield issues • Possible resistance from neighbors
Planned Unit Development	A comprehensive design and building plan	<ul style="list-style-type: none"> • Encourages efficient development • Often preserves open space • Allows high densities • Encourages a mix of uses 	<ul style="list-style-type: none"> • Requires great attention to planning and detail at the beginning • Often a cumbersome process

- **Minimize Conflicts.** Design projects to minimize conflicts over problems like noise, traffic, and parking. A good architect can incorporate design components to address these issues, but project plans should still be studied closely during the design review process.
- **Avoid Displacement of Low-Income Residents.** Mixed-use developments can significantly increase property values in surrounding areas. Including new affordable units in the design will help offset any displacement of low-income residents.

INFILL DEVELOPMENT

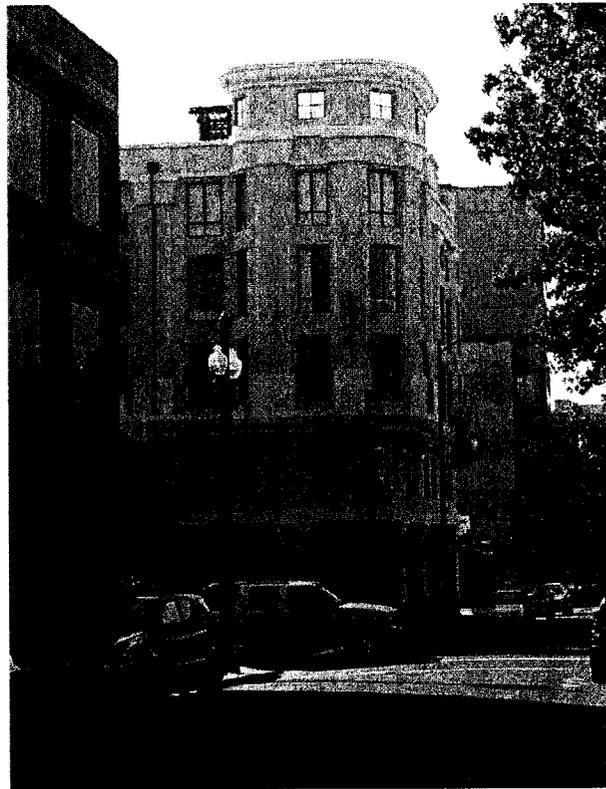
Many communities have scattered empty or underused parcels. These are usually prime sites for infill development. Infill allows the local agency to take advantage of existing infrastructure (although sometimes it may need to be upgraded) to support new development. Infill sites are often particularly suited for affordable housing projects because of their proximity to existing jobs and services. Again, the architectural design will often be critical to gaining acceptance from neighboring property owners. In other cases, the neighborhood will welcome the project as part of a revitalization plan.

OVERCOMING LOCAL RESISTANCE

One of the most visible obstacles to affordable housing is community opposition. Indeed, you may face a situation where you want to make the “right” planning decision despite a large, vocal opposition. Such decisions are difficult to make, and are perhaps even more difficult for elected officials who must face those same opponents in the next election.

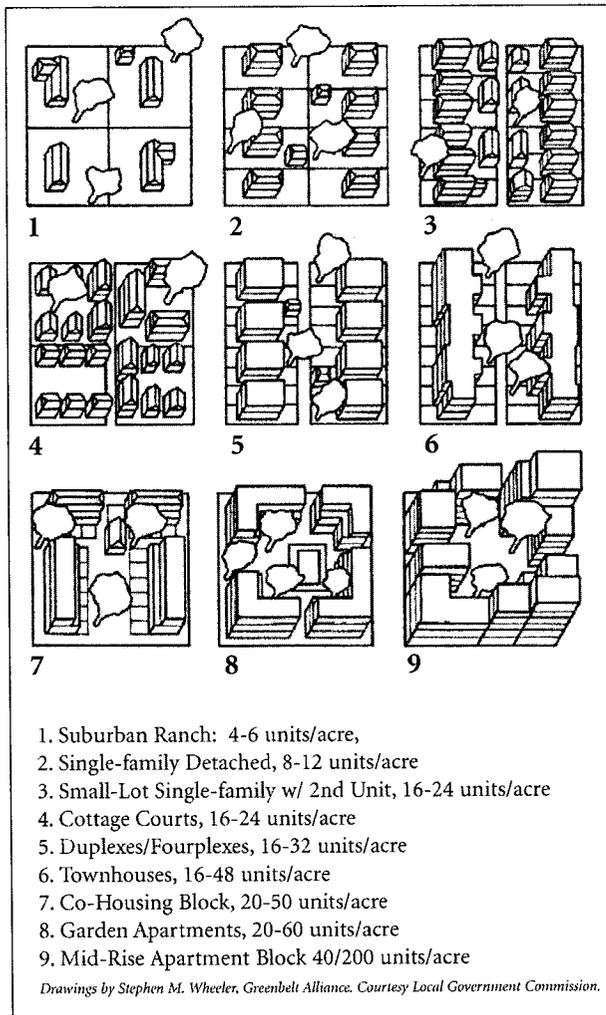
When resident sentiment is a big obstacle to a project, local agencies (or developers) can take a number of actions to engage the public up front. For example:

- **Don’t Immediately Dismiss Opponents as NIMBYs.** It is easy fall into the trap of assuming that all opposition derives from a self-interested “not in my back yard” (NIMBY) attitude. This can be avoided by analyzing opponents’ arguments. Individuals and neighborhood groups often raise legitimate concerns about projects that should be taken into account.



Nevertheless, there are some groups who just want to stop any kind of affordable housing project, regardless of the benefit to the community.

- **Consult with the Community in Advance.** Seek the community’s views on the design of the project, both in the neighborhood in which the project will be built and in adjacent neighborhoods. There are a number of community outreach strategies summarized in Section 3.
- **Be Prepared to Educate.** People often have negative stereotypes of who will live in affordable housing and what it will look like. On some level, you can’t really blame them—when was the last time you saw a “good” affordable housing project portrayed in the media? A quality education program can show what the design will look like and the typical occupations—such as teachers, public safety officers, retail clerks, and service workers—of the people who will occupy the units. The local agency should look for opportunities to educate residents well in advance of a proposed housing project. The revision and adoption of the housing element presents an excellent



opportunity to engage and educate residents about the need for and benefits of affordable housing. The agency could also organize or participate in housing tours and affordable housing events that showcase quality housing projects and include testimonials from the residents of the housing and from residents who previously opposed such projects.

- **Develop Networks.** Initiate and support partnerships among stakeholders. Connect project applicants with neighborhood groups during the planning process and encourage them to work through their concerns. Engage the business community in efforts to promote an adequate housing supply.

STREAMLINING PROCESSES

Long, complicated, overly subjective, or politically charged development procedures discourage the production of new housing. Planning officials can work with developers, the environmental community, and neighborhood interests to facilitate project approval without overlooking environmental issues and neighborhood concerns. Promoting one-stop permit processing centers, encouraging pre-application meetings, and expediting processing for affordable projects can reduce regulatory barriers to housing development.

PRESERVING AFFORDABLE HOUSING

Many local agencies face the added challenge of preserving their existing stock of affordable housing. In some cases, affordable housing units transition to market-rate units, convert to other uses, or disappear from the housing stock because of serious substandard conditions. Sometimes the loss of affordable units is market-driven. In other cases, it results from termination of the rent subsidy or prepayment of the mortgage assistance (most programs only impose affordability requirements for 20 to 55 years). In these circumstances—where local plans have to make up for lost units—local agencies feel even more pressure to increase production of affordable housing. To avoid this situation, many communities have started programs to keep units affordable. Typical methods include:

- Using affordable housing trust funds and other funds to purchase affordable units and turn them over to a land trust or authority to operate.
- Imposing conversion controls on mobilehome parks or single residency occupancy hotels (SROs) that provide important sources of affordable housing.
- Changing the zoning for mobilehome parks from a conditional use to a permitted use.
- Rehabilitating older or dilapidated housing.
- Monitoring assisted housing units at risk for conversion to non-affordable uses; identifying funding resources to continue the affordable uses;

partnering with non-profit housing sponsors and assisting in their purchase of the housing; and in the event the units convert, assisting with tenant relocation and assistance.

ARCHITECTURAL STANDARDS

Design guidelines and design review assure better looking projects that fit with the neighborhood. Design review can supplement development regulations by addressing issues that cannot easily be quantified in an ordinance. It also offers more flexibility than a zoning ordinance might provide. The advantage of using design review to promote affordable housing is that it can address the concerns of neighbors who fear that a development will be ugly, too bulky, or out of character

with the neighborhood. Good design is often the key to overcoming concerns about density.

Design review, however, can be a double-edged sword. Guidelines that are vague and cumbersome may discourage affordable housing projects. Additionally, the time required for review may also hinder projects from moving forward. To avoid this, the review process should ensure that developments will be reviewed in a timely manner and should restrict the scope of review. For example, the primary purpose of most design review processes is not to judge the specific design merits of a building, but rather to ensure that it reasonably fits within the context of the neighborhood. Many local agencies restrict the ability of design review to limit the size of the proposed project.

THE DESIGN ADVISOR (www.designadvisor.com)

The United States Department of Housing and Urban Development has developed an excellent website called the Design Advisor that is an excellent resource for design ideas. The following are some suggestions from the Design Advisor of questions to ask when reviewing a project's design:

- Do buildings relate to existing and planned buildings in terms of size, bulk, architecture, and use?
- Are there as many ground-level entries to individual units as possible?
- To the extent possible, do individual units have their own visual identity and individual addresses?
- Are buildings and landscaping situated to maximize sunlight and views?
- Is the project located near shops and schools and within 1/4 mile of a transit stop?
- Are parking lots located at the rear or on the side to allow a majority of units to front on the street?
- Are bicycle and pedestrian paths separated from vehicular traffic?
- Is open space provided as "outdoor rooms" for play, recreation, and social or cultural activities?
- Are play areas centrally located to allow for adult supervision from dwelling units?
- Is there sufficient energy-efficient lighting for safety?
- How does the first floor relate to the street? If close to the street, is it raised slightly to maintain privacy?
- Are height, color, setback, materials, texture, landscaping, trim, and roof shape varied to make the buildings visually and architecturally pleasing?
- Have porches, stairs, railings, fascia boards, and trim been incorporated to enhance the buildings' character?

