

## **M E M O R A N D U M**

January 29, 2020

GPAC Members:

Please find attached the following for you to insert into Tab #13 of your GPAC binder:

- ~~1. Updated GPAC Contact List (insert in front)~~
2. GPAC Meeting #13 Agenda
3. GPAC Meeting #12 Meeting Minutes
4. Previous and updated GP Land Use designations for selected parcels (per previously approved Council actions)
5. Draft General Plan Development Build-out Analysis
6. Various articles regarding CA State Legislature approved and pending bills

### **Updated GP Land Use Designations for Selected Parcels**

There are several parcels where the GP Land Use designation needs to be amended to reflect their current use. A majority of these parcels are used as open space, are for public use, or have a conservation easement. Existing and proposed draft land use designation maps are attached.

### **Draft General Plan Development Build-out Analysis**

State law requires that a General Plan include “an estimate of the total amount of development that may be built in an area under a certain set of assumptions, including applicable land use laws and policies (e.g., zoning), environmental constraints, etc.”

To determine the development build-out analysis, City staff and Kimley-Horn identified parcels that are currently entitled, vacant, or underdeveloped (see map attached). Entitled projects such as the Town Center, have been approved for development and are either under construction or pending. As such, their development capacity (i.e. the number of residential units or the amount of commercial square footage) is already known. For vacant and underdeveloped parcels, an average density per their land use designation was multiplied by the parcel size.

Additionally, the City has received a number of project applications that are requesting a General Plan Amendment. Such amendments are discretionary and require the approval by the City Council. For comparative purposes, two development build-out scenarios are presented in the attached tables; 1) Existing GP/Zoning Designation, and 2) GP/Zoning Amendment Approvals for Applications Submitted. Both of these scenarios will be discussed at our meeting with the goal of identifying a GPAC-recommended approach to the build-out analysis that will be used in the General Plan and General Plan EIR. As summarized in the table below, both scenarios have less housing units than assumed in the existing 1994 General Plan.

	1994 General Plan Buildout Assumptions	Existing GP/Zoning Designation	GP/Zoning Amendment Approvals for Applications Submitted
Housing	6,500	5,525	5,969
Population	15,000	14,223	15,413

It is important to note that this development build-out analysis only represents a maximum development envelope of density based on existing and potential general plan land use designations. Development forecasts involves an analysis of other factors such as; environmental constraints, economic and market conditions, historic trends, property ownership, and community preferences.

For the GP EIR, the development capacity will provide a reference point for how and where such growth will be accommodated, and how the City and other public agencies will accommodate such growth, particularly with respect to infrastructure requirements (e.g. roads, water, sewer), and public services (e.g. police, fire, and parks & recreation).

### **Mixed-Use in the Commercial – Service and Shopping Center Commercial Land Use Designations**

As we have discussed previously, there has been an interest to more clearly define how residential use may be developed part of a mixed-use development in the Commercial – Service and Shopping Center Commercial land use designations

Because the amount of commercial development has a direct correlation on sales tax revenue, it is important that the City maintain a sufficient amount of commercial property to adequately serve the community.

To better clarify the intent, the following draft revision will be discussed by the GPAC at our next meeting:

*Service Commercial* - retail stores and shops, food and motel/hotel establishments, services such as printing shops and electrical repair shops, heating and ventilating

shops. Very high density mixed use residential is permitted, providing adjacent uses are compatible and the residential use is secondary to the retail use (i.e. consists of no more than 49% of the total gross square feet of the development).

*Shopping Center Commercial* - retail and service establishments for the development of community and/or regional shopping centers. Examples of uses in this category would include stores, shops, and offices included in the professional office and service commercial categories, providing adjacent uses are compatible. Very high density mixed use (residential/commercial) is permitted providing adjacent uses are compatible and the residential use is secondary to the retail use ( i.e. consists of no more than 49% of the total gross square feet of the development).

### **CA State Legislation and Scotts Valley**

At our next meeting, we will provide a high-level summary of the recently approved and pending CA State legislation and its potential effect on future development in Scotts Valley, particularly as it relates to housing development. The attached documents will provide a useful reference to the conversation

We look forward to seeing you on Monday, February 3<sup>rd</sup> at 6:00 PM in the Council Chambers.

Regards,

A handwritten signature in blue ink that reads "Bill Wiseman".

Kimley-Horn & Associates



# AGENDA



## Meeting of the General Plan Advisory Committee (GPAC)

**Date: February 3, 2020**

**Time: 6:00 – 8:00 PM**

<b>CITY OF SCOTTS VALLEY</b> 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5630	<b>MEETING LOCATION</b> City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	<b>POSTING:</b> The agenda was posted 01-30-20 at City Hall, SV Senior Center, SV Library and on the Internet at <a href="http://www.scottsvalliegeneralplan.com">www.scottsvalliegeneralplan.com</a>
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### Elected and Appointed Officials

Jim Reed, Scotts Valley City Council  
Derek Timm, Scotts Valley City Council  
Lori Gentile, Scotts Valley Planning Commission  
Cathie Simonovich, Scotts Valley Parks & Recreation Commission  
Russ Patterson, Chair, Scotts Valley Fire Protection District Board of Directors  
Michael Shulman, President, Scotts Valley Unified School District Board of Directors  
John Yost, President, Scotts Valley Chamber of Commerce Board of Directors  
Chris Perri, Vice President, Scotts Valley Water District Board of Directors  
Steven Clark, At-Large Member, Appointed by the Scotts Valley City Council  
Angela Franklin, At-Large Member, Appointed by the Scotts Valley City Council  
Jeff Hill, At-Large Member, Appointed by the Scotts Valley City Council

### City and Support Staff Members

Taylor Bateman, Community Development Director  
Tina Friend, City Manager  
Brenda Stevens, Associate Planner  
Daryl Jordan, Public Works Director  
Bill Wiseman, GPAC Consultant, Kimley-Horn & Associates

*Questions or comments about the General Plan Update may be directed to Taylor Bateman, Community Development Director at 831-440-5633 or [tbateman@scottsvallie.org](mailto:tbateman@scottsvallie.org). Further information can also be found at: [www.scottsvalliegeneralplan.com](http://www.scottsvalliegeneralplan.com)*

**CALL TO ORDER:** 6:00 p.m.

**ROLL CALL**

**PUBLIC COMMENT**

This is the opportunity for individuals to make and/or submit written or oral comments to the Council on any items within the purview of the Council, which are NOT part of the Agenda. No action on the item may be taken, but the Council may request the matter be placed on a future agenda.

**ALTERATIONS TO CONSENT AGENDA**

(Committee Members can remove or add items to the Consent Agenda.)

**CONSENT AGENDA**

(The Consent Agenda is comprised of items which appear to be non-controversial. Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

A. Approve Committee meeting minutes of June 17, 2019

**ALTERATIONS TO REGULAR AGENDA**

(Committee Members can remove or add items to the Regular Agenda.)

**REGULAR AGENDA**

(Persons wishing to speak on any item may do so by raising their hand to be recognized by the Chair.)

1. Introduction of new GPAC member Cathie Simonovich, Scotts Valley Parks & Recreation Commission
2. Review of the proposed revised General Plan land use designations
3. Review of the Draft General Plan Development Build-out Analysis
4. Update regarding recently enacted CA State housing legislation
5. Review of draft clarifying text revisions to the Commercial Service (C-S) and Shopping Center Commercial (C-SC) land use designations
6. Next Steps

**ADJOURNMENT**      8:00 PM

*The GPAC does not have regular meeting dates, therefore, all meetings are special meetings as defined under the Government Code § 54956 and will be noticed at least 24 hours in advance. Writings that are a public record under Government Code § 54957.5(a), and that relate to an agenda item of a special meeting of the GPAC, shall be available for public inspection at the City of Scotts Valley, 1 Civic Center Drive, Scotts Valley, CA 95066, and also on the General Plan Update website at: [www.scottsvalleygeneralplan.com](http://www.scottsvalleygeneralplan.com)*

The City of Scotts Valley does not discriminate against persons with disabilities. The Committee meeting locations are accessible facilities. If you wish to attend a Committee meeting and require assistance such as sign language, a translator, or other special assistance or devices in order to attend and participate at the meeting, please call the City Clerk's Office at 831-440-5602 five to seven days in advance of the meeting to make arrangements for assistance. If you require the agenda of a Committee meeting be available in an alternative format consistent with a specific disability, please call the City Clerk's Office. The California State Relay Service (TTY/VCO/HCO to Voice: English 1-800-735-2929, Spanish 1-800-855-3000; or, Voice to TTY/VCO/HCO: English 1-800-735-2922, Spanish 1-800-855-3000), provides Telecommunications Devices for the Deaf and Disabled and will provide a link between the TDD caller and users of telephone equipment.



# MINUTES



## Meeting of the General Plan Advisory Committee (GPAC)

Date: June 17, 2019

Time: 6:00 pm

<b>CITY OF SCOTTS VALLEY</b> 1 Civic Center Drive Scotts Valley, CA 95066 (831) 440-5630	<b>MEETING LOCATION</b> City Council Chambers 1 Civic Center Drive Scotts Valley, CA 95066	<b>POSTING:</b> The agenda was posted 06-13-19 at City Hall, SV Senior Center, SV Library and on the Internet at <a href="http://www.scottsvalliegeneralplan.com">www.scottsvalliegeneralplan.com</a>
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**CALL TO ORDER** 6:00 p.m.

### ROLL CALL

#### Elected and Appointed Officials:

Present:

Jim Reed, Scotts Valley City Council

Lori Gentile, Scotts Valley Planning Commission

Vacant, Scotts Valley Parks & Recreation Commission

Russ Patterson, Chair, Scotts Valley Fire Protection District Board of Directors

Michael Shulman, President, Scotts Valley Unified School District Board of Directors

Steven Clark, At-Large Member, Appointed by the Scotts Valley City Council

Angela Franklin, At-Large Member, Appointed by the Scotts Valley City Council

Jeff Hill, At-Large Member, Appointed by the Scotts Valley City Council

Chris Perri, Vice President, Scotts Valley Water District Board of Directors

Absent:

Derek Timm, Scotts Valley City Council

John Yost, President, Scotts Valley Chamber of Commerce Board of Directors

#### City and Support Staff Members:

Present: Tina Friend, City Manager

Taylor Bateman, Community Development Director

Daryl Jordan, Public Works Director

Bill Wiseman, GPAC Consultant, Kimley-Horn

**PUBLIC COMMENT:** None.

**ALTERATIONS TO CONSENT AGENDA:** None.

## CONSENT AGENDA:

- A. Approve Committee meeting minutes of May 6, 2019 (GPAC Meeting #11)

***M/S: Patterson/Schulman***

***To approve the Consent Agenda.***

***Carried 9/0/0/2 (AYES: Reed, Perri, Gentile, Patterson, Shulman, Clark, Franklin and Hill. Noes: None. Abstain: None. Absent: Yost, Timm***

**ALTERATIONS TO REGULAR AGENDA:** None.

## REGULAR AGENDA

1. Introductions, Tina Friend, City Manager (10 minutes)

Tina Friend introduced herself to the GPAC and provided a brief summary of her background and interest in working with the GPAC to progress the SVGP to City Council adoption in 2020

2. Review Draft Land Use Element (90 minutes)

Taylor Bateman and Bill Wiseman led the GPAC through the organization and content of the Draft Land Use Element. GPAC members provided narrative and subsequent written comments which will be incorporated into the next draft.

3. Next Steps (10 minutes)

GPAC members recommended targeting the next meeting to occur prior to the holiday break, if possible.

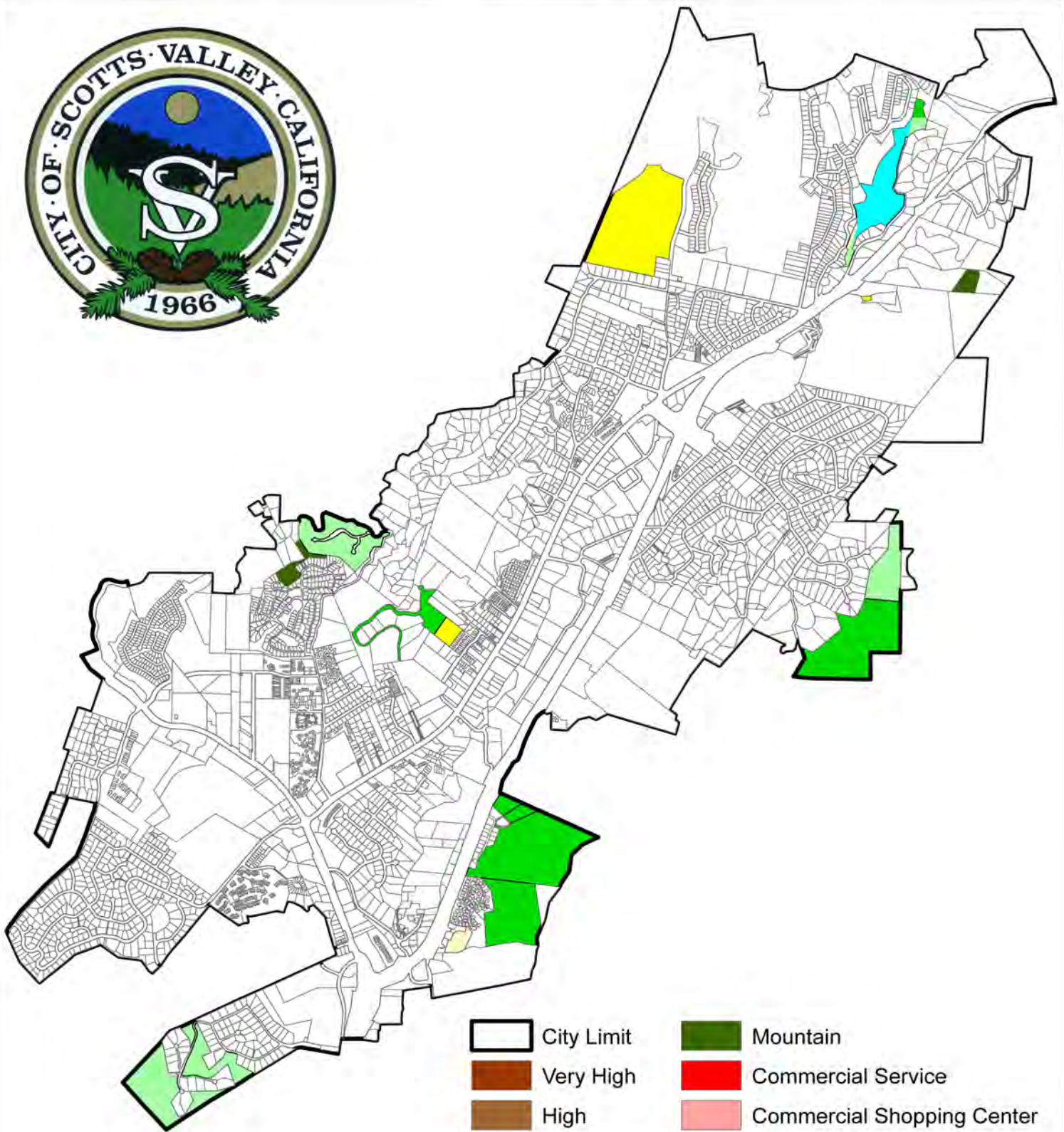
**ADJOURNMENT**      The meeting adjourned at 8:00 p.m.

Approved: \_\_\_\_\_  
Derek Timm, Chair

Attest: \_\_\_\_\_  
Taylor Bateman, CDD

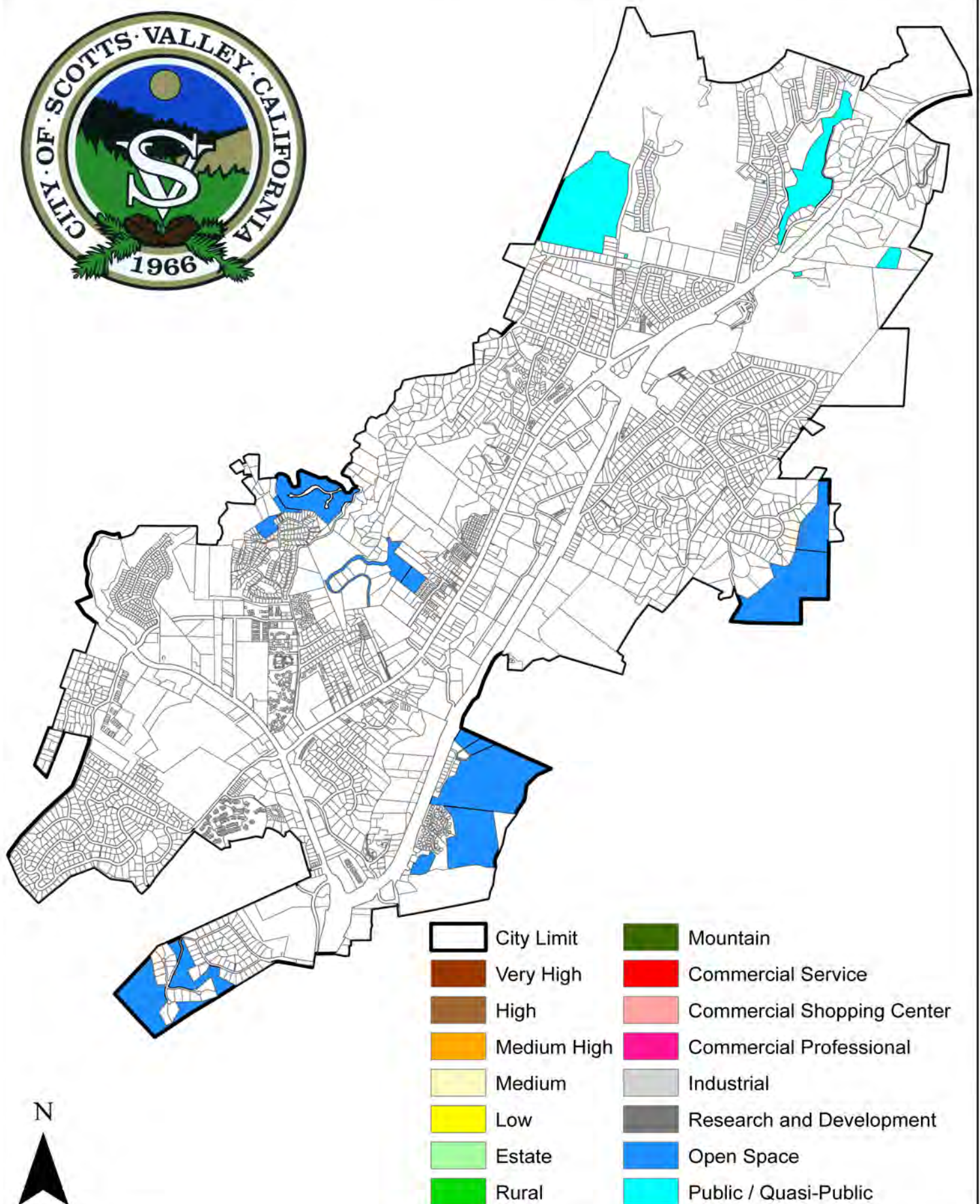


## Previous Land Use Designations





# Updated Land Use Designations



## Scotts Valley General Plan Development Build-out Analysis

### Existing GP/Zoning Designation

Category	Single-Family Residential (Units)	Multi-family Residential (Units)	Commercial (sf.)	Hotel (rms.)	Average Density (DUs / Acres FAR)	
					Acres	FAR
Entitled						
Under Construction	42	127	18,318			
Pending Construction	19	6		120		
Town Center (remaining)		254	286,682			
<b>Subtotal</b>	<b>61</b>	<b>387</b>	<b>305,000</b>	<b>120</b>		
<b>Applications Submitted</b>						
Oak Creek Park		13	52,337		3.56	0.45
Aviza						
Bay Photo		2	6,910		0.47	0.45
Erba Lane		18			1.04	17
La Madrona Mixed-Use		66	259,776		17.67	0.45
Valley Gardens						
<b>Subtotal</b>	<b>-</b>	<b>99</b>	<b>319,023</b>	<b>-</b>		
<b>Vacant / Underdeveloped</b>						
Residential Very High		124			7.29	17
Residential High		3			0.24	12
Residential Med High	20				2.82	7
Residential Medium	3				0.74	4
Residential - Low	12				5.88	2
Accessory Dwelling Units	25					
Commercial Services		42	165,245		11.24	0.45
Commercial - Shopping Center			3,202		0.21	0.35
Industrial			24,176		1.11	0.5
<b>Subtotal</b>	<b>59</b>	<b>169</b>	<b>192,622</b>	<b>-</b>		
<b>Total</b>	<b>120</b>	<b>655</b>	<b>816,645</b>	<b>120</b>		

Development Potential	Existing 2020 (2)	Buildout	Net Increase
Households	4,750	5,525	775
Population (@ 2.68 persons/household)	12,145	14,223	2,078
Employment (2)	7,612	8,349	737

Notes:

- (1) Requires a General Plan and Zoning Amendments
- (2) AMBAG 2018 Regional Growth Forecast (2015-2040)

# Scotts Valley General Plan Development Build-out Analysis

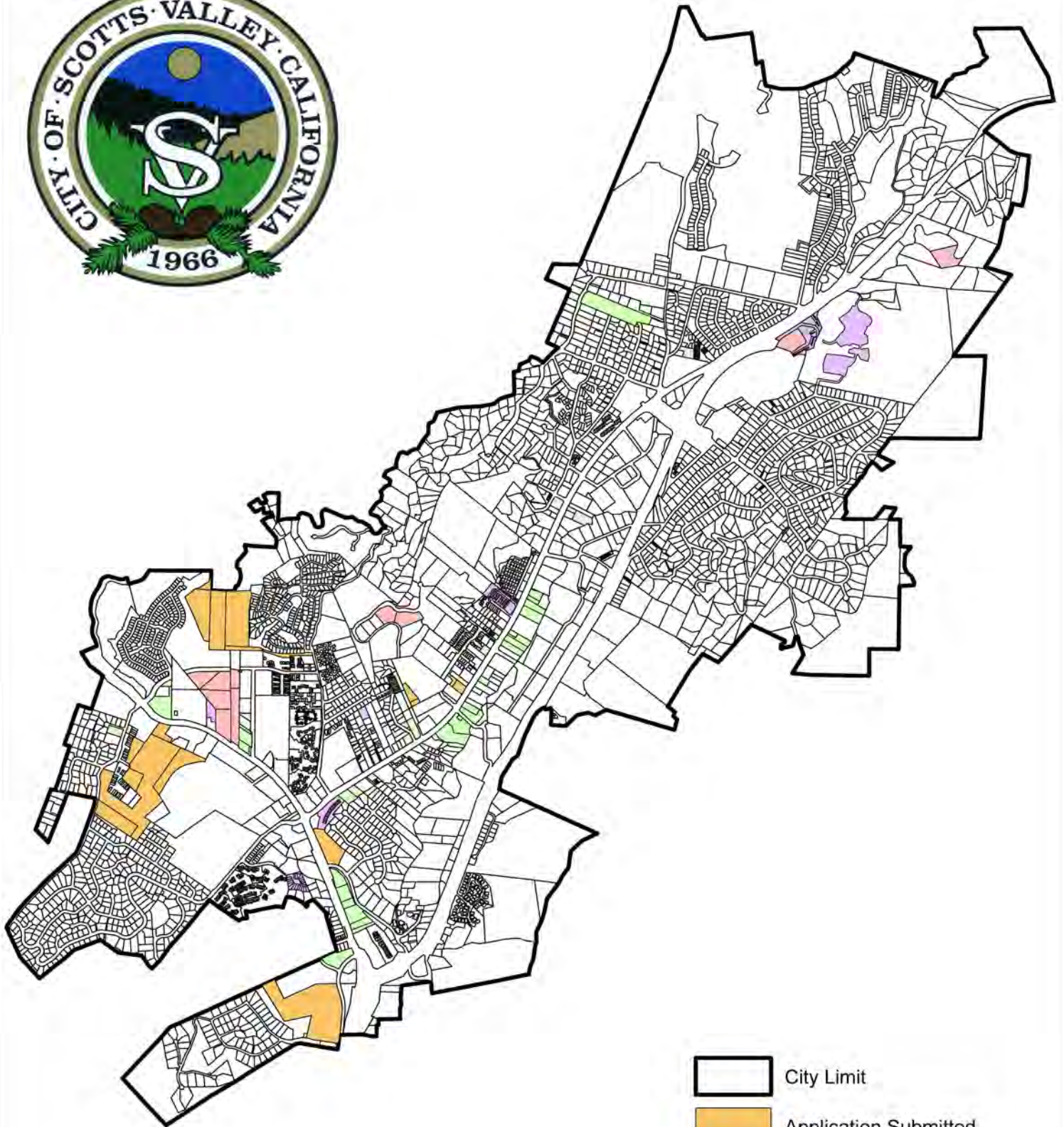
## GP/Zoning Amendment Approvals for Applications Submitted

Category	Single-Family Residential (Units)	Multi-family Residential (Units)	Commercial (sf.)	Hotel (rms.)	Average Density (DUs / FAR)
Entitled					
Under Construction	42	127	18,318		
Pending Construction	19	6		120	
Town Center (remaining)		254	286,682		
<b>Subtotal</b>	<b>61</b>	<b>387</b>	<b>305,000</b>	<b>120</b>	
<b>Applications Submitted</b>					
Oak Creek Park (1)		52	24,973		
Aviza (1)	87				
Bay Photo		19			
Erba Lane		11			
La Madrona Mixed-Use (1)		184		171	
Valley Gardens (1)	110	80	5,000		
<b>Subtotal</b>	<b>197</b>	<b>346</b>	<b>29,973</b>	<b>171</b>	
<b>Vacant / Underdeveloped</b>					
Residential Very High		124			7.29 17
Residential High		3			0.24 12
Residential Med High	20				2.82 7
Residential Medium	3				0.74 4
Residential - Low	12				5.88 2
Accessory Dwelling Units	25				
Commercial Services		42	165,245		11.24 0.45
Commercial - Shopping Center			3,202		0.21 0.35
Industrial			24,176		1.11 0.5
<b>Subtotal</b>	<b>59</b>	<b>169</b>	<b>192,622</b>	<b>-</b>	
<b>Total</b>	<b>317</b>	<b>902</b>	<b>527,595</b>	<b>291</b>	

Development Potential	Existing 2020 (2)	Buildout	Net Increase
Households	4,750	5,969	1,219
Population (@ 2.68 persons/household)	12,145	15,413	3,268
Employment (2)	7,612	8,349	737



## Development Build-out Parcels



-  City Limit
-  Application Submitted
-  Entitled
-  Entitled - Under Construction
-  Vacant/Underdeveloped





American Planning Association  
**California Chapter**

*Making Great Communities Happen*

## **APA CALIFORNIA LEGISLATIVE UPDATE**

**DECEMBER 2019**

**By Eric Phillips, Vice President Policy and Legislation  
Sande George, APA California Lobbyist  
Lauren De Valencia y Sanchez, APA California Lobbyist**

2019 continued to see legislative efforts focus on addressing various strategies to increase housing production. Senator Wiener's SB 50 – a bill that would require approval of multifamily development near transit and in job centers - dominated much of the news coverage and public discourse during the first part of the year, but it ultimately was made a two-year bill and did not advance to the Governor in 2019. AB 1482 created statewide rent stabilization and eviction protections for tenants, and it also attracted much coverage and attention before being signed into law. In the meantime, many bills passed without the same level of attention, notably SB 330 (the Housing Crisis Act of 2019, limiting the ability to enforce certain housing regulations) and the suite of bills intended to further promote second unit development. 2019 also saw the first major effects of implementing 2018's Housing Element bills (AB 1771 and SB 828) as SCAG has begun grappling with how to plan for a significantly increased regional housing needs allocation.

Lawmakers also made an effort to minimize future disasters from wildfires through Senator Jackson's SB 182, which would restrict new development in fire hazard areas and impose new development standards in areas with increased risk of wildfire where building is still permitted. Debates over how this bill would affect housing production pushed this to a two-year bill, but we expect to see it return in 2020.

Debates continue around how to finance infrastructure, community facilities, and services as we plan for increased housing supply throughout the state. Senator Beall proposed SB 5, which would have created a new financing tool for cities and counties to help pay for infrastructure and affordable housing construction, but the Governor vetoed the bill. Meanwhile, ACA 1 was made a two-year bill and presents another opportunity to reform the vote requirements to make it easier to finance infrastructure and affordable housing.

Finally, AB 1483 will make impact fees more transparent and begin reporting fee information to HCD. AB 1484 is a two-year bill intended to implement additional reforms to the impact fee process and will continue to move in 2020.

### **How You Can Get Involved in Shaping APA California's Legislative Positions**

2020 promises to be just as active as 2019 was, and we encourage you to be involved through APA California's Legislative Review Team, whose members advise APA California on legislative positions, potential amendments and key planning policies. Information on the Review Team and sign up information are located on the APA California website legislation page. To find APA's positions on all of the major planning-related bills, and to review APA's letters on those bills, please go to the legislative tab on APA's website at [www.apacalifornia.com](http://www.apacalifornia.com). All position letters are posted on the APA California website "Legislation" page, which can be found here: <https://www.apacalifornia.org/legislation/legislative-review-teams/position-letters/>.

### **Legislative Webinars**

APA California recently hosted two webinars that focused on implementation of the recent passage of the ADU bills (mainly AB 68, AB 881 and SB 13) and the Housing Crisis Act of 2019 (SB 330). The focus of the webinars was to provide members with an update on the new laws in order to

ensure proper implementation. Materials for the webinars can be accessed on APA California's website.

### **SB 50 in 2020**

Looking forward to the 2020 Legislative session, APA California will continue to engage on SB 50 (Wiener, Housing Development Incentives and Requirements), which was made a two-year bill in 2019. Discussions on the bill are ongoing and it is expected that the bill will continue to move during 2020. We know this is important legislation, and our members have strong opinions regarding its future. We have been involved in trying to improve SB 50 so that it promotes higher density in infill and growth areas linked to transit, minimum average density and affordability near major transit stops, through the use of good planning principals. We appreciate the efforts the authors and sponsors have made to improve SB 50 to date, and the Chapter will continue to be engaged with their offices in 2020.

### **High Priority Bills with Positions**

Below are some of the othe high priority bills APA California worked on this year. Position letters for these bills are located on the APA California website. To view the full list of hot planning bills, copies of the measures, up-to-the minute status and APA California letters and positions, please continue to visit the legislative page on APA California's website at [www.apacalifornia.org](http://www.apacalifornia.org).

### **Housing and Infrastructure Bills**

#### **AB 11 (Chiu) – Redevelopment 2.0 for infrastructure to support housing**

Position: Support

Status: Two-Year Bill

#### **AB 36 (Bloom) Rent Control**

Position: Watch

Status: Two-Year Bill

#### **AB 68 (Ting) Major changes to accessory dwelling unit law**

Position: Neutral as Amended

Status: Signed by the Governor

#### **AB 139 (Quirk-Silva) Emergency and transitional housing**

Position: Support

Status: Signed by the Governor

#### **AB 670 (Friedman) Accessory dwelling units in common interest developments**

Position: Support

Status: Signed by the Governor

#### **AB 725 (Wicks) Restrictions on above moderate housing on single-family sites**

Position: Oppose Unless Amended

Status: Two-Year Bill

#### **AB 891 (Burke) Safe Parking Programs**

Position: Support if Amended

Status: Vetoed by the Governor

#### **AB 1250 (Gloria) New limitations on subdivisions**

Position: Oppose Unless Amended

Status: Two-Year Bill

#### **AB 1279 (Bloom) By right approval of housing development projects in high-resource areas**

Position: Support if Amended

Status: Two-Year Bill

**AB 1399 (Bloom) Rent Control: Withdrawal of Accommodations**

Position: Support

Status: Signed by the Governor

**AB 1482 (Chiu) Tenant Protection, Rent Caps, Eviction Restrictions**

Position: Support

Status: Signed by the Governor

**AB 1483 (Grayson) Requirements for web posting of fees imposed on housing developments and additional annual housing report requirements**

Position: Oppose Unless Amended

Status: Signed by the Governor

**AB 1484 (Grayson) Vehicle for Fee Recommendations from HCD Fee Study and Posting Requirements for Fees Applicable to Housing Developments**

Position: Support existing fee language if amended

Status: Two-Year Bill

**AB 1485 (McCarty) Prohibition on applying for state grants if jurisdiction found in violation of state housing law**

Position: Watch

Status: Two-Year Bill

**AB 1717 (Friedman) Transit-Oriented Affordable Housing Funding Program Act**

Position: Support

Status: Two-Year Bill

**AB 1763 (Chiu) 100% Density Bonus and Other Incentives for 100% Affordable Housing**

Position: Support

Status: Signed by the Governor

**ACA 1 (Aguiar-Curry) Local government financing for affordable housing and infrastructure**

Position: Support

Status: Two-Year Bill

**SB 4 (McGuire) By right approval for transit-oriented development and small multifamily developments**

Position: Watch

Status: Two-Year Bill (was merged with SB 50)

**SB 5 (Beall) Affordable Housing and Community Development Investment Program: State Approved Alternative Redevelopment Process**

Position: Support

Status: Vetoed by the Governor

**SB 6 (Beall) Available land database**

Position: Support

Status: Signed by the Governor

**SB 13 (Wieckowski) Major changes to accessory dwelling unit law**

Position: Neutral as Amended

Status: Signed by the Governor

**SB 18 (Skinner) – Tenant Assistance: Keep Californians Housed Act**

Position: Support



Status: Signed by the Governor

**SB 48 (Wiener) Interim low-barrier shelter housing developments**

Position: Support if Amended

Status: Two-Year Bill (Included in Housing Budget Trailer Bills)

**SB 50 (Wiener) Housing development incentives and requirements**

Position: Oppose Unless Amended

Status: Two-Year Bill

**SB 330 (Skinner) Housing Crisis Act of 2019**

Position: Neutral as Amended

Status: Signed by the Governor

**SB 592 (Wiener) Housing Accountability Act**

Position: Oppose Unless Amended

Status: Two-Year Bill

# California's "Housing Crisis Act of 2019" May Boost Housing Production or Just Boost Housing-Related Litigation

**SheppardMullin**

Article By

[Jeffrey W. Forrest](#)

[Sheppard, Mullin, Richter & Hampton LLP](#)

[Real Estate, Land Use & Environmental Law Blog](#)

- [Election Law / Legislative News](#)
- [Real Estate](#)
- [California](#)

Saturday, October 12, 2019

On October 9, 2019, Governor Newsom signed into law Senate Bill (SB) 330, or the "[Housing Crisis Act of 2019](#)" in an effort to combat California's current housing shortage, which has resulted in the highest rents and lowest homeownership rates in the nation. In a nutshell, the Housing Crisis Act of 2019 seeks to boost homebuilding throughout the State for at least the next 5 years, particularly in urbanized zones, by expediting the approval process for housing development. To accomplish this, the Housing Crisis Act of 2019 removes some local discretionary land use controls currently in place and requires municipalities to approve all developments that comply with current zoning codes and general plans. If not extended, SB 330 will only be effective from January 1, 2020 through January 1, 2025.

Governor Newsom signed SB 330 over the objections of local governments to help meet his ambitious goal of 3.5 million new housing units by 2025. One study by UCLA found that localities have already approved zoning for 2.8 million new housing units – 80% of Governor Newsom's goal. However, if zoning alone was enough to increase housing production, California's rate of housing production would be increasing. Instead, in the first half of 2019, there was a 20% reduction in the issuance of residential building permits compared to the same time period in 2018. California believes the reduction was due, in part, to excessive hearings and local approval procedures, mid-application spikes in development impact fees, and mid-application

changes to development regulations, all of which can render a residential development project infeasible.

Only time will tell if SB 330 will actually increase the rate of housing production or merely fill the courts with more housing-related litigation prior to SB 330's sunset in 5 years. However, one thing is for sure – local governments must tread carefully before denying the next housing project.

## **Major Provisions:**

The Housing Crisis Act of 2019 applies to all housing developments consistent with objective general plan, zoning and subdivision standards in effect at the time an application is deemed complete, and affects all cities and counties in California – including charter cities. A “housing development” is defined as a project that is (1) all residential; (2) a mixed use project with at least two-thirds of the square-footage residential; or (3) for transitional or supportive housing.

SB 330 also places extra restrictions on certain “affected” cities and counties with housing statistics below national averages. As defined by the legislation, today there are nearly 450 cities and unincorporated parts of counties that qualify as “affected.”

For all cities and counties, the Housing Crisis Act of 2019's major impacts include:

- Retroactive prevention of zoning codes or design standards alterations that reduce residential density or intensity of use from that which was in place on January 1, 2018;
- Authorization of proposed housing developments to override the local zoning codes that are inconsistent with the general plan, if the project is consistent with the general plan or land-use element of a specific plan;
- Prevention of non-scheduled impact fees increases after a project applicant has submitted all preliminary required information;
- Limitation of the number of public hearings on a development to 5; and
- Specification that applications must be reviewed for completeness within 30 days of submission, provision of a written notice to the applicant if the agency believes the project is inconsistent with objective local development plans, policies and standards within 30 days if a housing project is under 150 units (and 60 days if the housing project is over 150 units).

Additional controls on “affected”[1] cities include:

- Prevention of municipalities from enacting moratoriums on residential and mixed use projects;
- Prevention of municipalities from establishing caps on the number of people who can live in the municipality, the number of housing units allowed, or the number of housing units to be constructed; and

- Prevention of any density reductions or changes to design standards that downzone or limit housing development.

In addition to the above-mentioned controls on a local government's ability to restrict development, there are also special limitations on reductions to affordable housing in a community. As to cities and counties, a local agency may not disapprove, or condition approval in a manner that renders infeasible a housing project for very low, low-, or moderate-income households or emergency shelters without specific written findings based on a preponderance of evidence in the record. This only applies to projects with 20% of the total units set-aside for affordable housing at 60% area median income (AMI) or 100% of the total units set-aside for affordable housing at 100% AMI.

As for developers, the Housing Crisis Act of 2019 bans any demolition of affordable or rent-controlled units unless the developer replaces all such units, allows tenants to stay in their homes until 6 months before construction begins, provides relocation assistance to tenants, and offers tenants a first right of return at an affordable rent.

SB 330 also implements penalties for violation of [Housing Accountability Act \(Govt. Code § 65589.5\)](#) (HAA) rules. Specifically, a court may require an agency make appropriate findings of denial or pay a \$10,000 per unit fine into affordable housing funds. In the case of a local agency's bad faith and failure to comply with a court order within 60 days, fines can increase to \$50,000 per unit and the court can overturn a project denial and approve the project itself. Bad faith includes decisions that are frivolous or entirely without merit.

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[1] SB 330 sets out criteria for identifying "affected" cities based on incorporation, size, and the average rent and vacancy rate compared to the national average.

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**Source URL:** <https://www.natlawreview.com/article/california-s-housing-crisis-act-2019-may-boost-housing-production-or-just-boost>



Growing cities up: California's SB 50 is a model for addressing the urban housing crisis.

By Christopher S. Elmendorf, Professor of Law, UC Davis, in *City-journal.org*, January 14, 2020

"Earlier this month, California state senator Scott Wiener began the third year of his push for a state law to override local zoning and authorize midsize apartment buildings near transit stops. The [latest version](#) of his bill, SB 50, comes with a twist that augurs well for its passage and eventual impact.

"Longtime residents, especially homeowners, resist neighborhood change. They're also the dominant force in local politics. The preserve-the-neighborhood norm would be innocuous if it was limited to a few locales, but when all of a metro region's municipalities throw up barricades to new housing, the cumulative effect is disastrous.

"The ambition of SB 50 is to turn the clock back to an earlier era — not just pre-1970, but before the Great Depression, when single-family homes in growing cities were commonly torn down and replaced by small apartment buildings."

"Today, the expansion of urban housing stock is basically confined to formerly industrial and commercial zones. The [majority](#) of buildable land in major cities remains locked up in the zoning straightjacket. Once a tract has been zoned and developed for single-family homes, it's stuck.

"To mollify opponents, Wiener has made it clear that his bill would not touch local authority over demolition controls, design standards, permitting procedures, impact fees, and more. But the less that the bill preempts, the easier it will be to evade.

"The new version of SB 50 deftly resolves this dilemma. Instead of immediately 'up-zoning' all residential parcels within a half mile of a transit stop — as the prior versions would have done — the bill defines a default zoning 'envelope' for these parcels. Local governments will get two years either to accept the default or propose an alternative 'local flexibility plan' that creates an equivalent amount of developable space...

"A flexibility plan takes effect only if approved by the state housing department; otherwise, the SB 50 up-zoning kicks in, by default.

"A local flexibility plan must '[increase overall feasible housing capacity](#),' as the new SB 50 declares. To deliver on that goal, the state agency could insist that a flexibility plan put reasonable limits on fees, permitting times, demolition controls, and more.

"California has long been the poster child for housing-policy dysfunction, but the problems facing San Francisco, Los Angeles, San Jose, and San Diego are also playing out in [superstar cities](#) across the nation and worldwide."



Read more [here.](#)"

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