

SAN MATEO COUNTY
ASSOCIATION of REALTORS®

Jurisdictions across San Mateo County are updating their local Housing Elements and renewing and/or proposing policies to meet their Regional Housing Needs Allocation (RHNA). To that end, the San Mateo County Association of REALTORS® (SAMCAR) is a resource to policy makers and housing staffs to help ensure that their respective Housing Elements meet the requirements of state law and adequately reflect the community's need for *ALL* housing types – affordable as well as fair market.

As an organization, we have long been an advocate for affordable housing, the protection of private property rights and represent the interests of home owners and over 2,700 REALTORS® and real estate professionals in San Mateo County. Housing Elements represent an opportunity to increase the ability for residents to live in the communities in which they work.

How that is achieved, however, is the difference between encouraging the production of housing and government fiat. SAMCAR encourages you to review the enclosed inventory of policies with an eye toward incorporating them into the draft and final versions of the Housing Element.

There are two primary methods to achieving a goal of providing more housing, both affordable units and fair market units: **incentive programs** or punitive mandates.

SAMCAR urges you to research and implement the former as part of deliberations during the Housing Element update. Measures such as rent control (AKA rent stabilization) have proven over time to be anathemas to affordable housing. Rent control/stabilization is defined as a price ceiling imposed by the government; a government restriction, applicable to rental units, in which a maximum is placed on the amount a property owner can charge for rent/lease. Imposition of same typically creates a housing shortage due to increased demand; will decrease the quality of available housing; and, is a disincentive to maintenance of existing rentals.

Other punitive mandates include so-called “just cause” regulations and tenant relocation fees on rental properties along with the traditional mandatory inclusionary exactions (assuming the nexus study being funded by the county and the cities finds a means around the *Palmer* decision). They are counterproductive to the goals and objectives mandated for a Housing Element and to the provision of affordable housing.

According to the California Association of REALTORS® (C.A.R.) Housing Affordability Index (HAI), only 12 per cent of households can afford to purchase the median priced home in San Mateo County (\$1,126,500 - Source: MLS Listings, May 2014).

However, when home prices are weighted by eliminating such high cost areas as Atherton, where the median home price is \$5,045,000; Hillsborough-\$4,209,344; Woodside-\$3,102,562; Portola Valley-\$2,690,625; and, Menlo Park-\$2,316,068, the median home price for San Mateo County

drops to \$818,193 and the HAI index rises to 23 percent (compared to a statewide HAI of 33 percent).

Nonetheless, this still points to a need to provide more affordable housing opportunities.

We would recommend **Implementation of a Homeownership Policy** as one method of increasing housing opportunities. The City of Hayward amended its Housing Element a decade ago to increase the percentage of households who become homeowners from 51% to 70%. In the intervening years, the City Council has adopted amendments that included new policies and programs to help increase the city's homeownership rate while simultaneously reducing regulation and cost thereby assisting median income households become homebuyers. Creating a larger pool of potential homebuyers to purchase moderately priced homes also helps open up additional socio-economic housing opportunities.

Regarding fees, the cities and the county have identified a list of informational goals such as the maximum and recommended fees on new residential development; allowable inclusionary zoning levels; and, the maximum and recommended fees for new commercial development.

We understand why jurisdictions are turning to fees more and more for affordable housing: The dissolution of Redevelopment Agencies and the dwindling availability of state bonds. The funds are meant to give the county and the cities the means to build/procure affordable housing although, with land at a premium in San Mateo County, that can be its own challenge. Obviously, local governments can answer by opening/zoning/rezoning more land for housing... also a key to reducing rents. As inventory increases, there is more supply; therefore, rents decrease as renters (and home buyers relative to sales) have more options.

As noted and proven in other jurisdictions, the more successful approach to providing affordable housing is by use of incentive programs. SAMCAR recommends the following be researched and included in the county's Housing Element:

>Allow fee waivers for affordable rehabilitation: Consider amendment to the Master Fee Schedule to allow for waiver of permit fees for rehabilitation of affordable housing.

>Broad Distribution of Affordable Housing Funding Sources: The costs for 'affordable housing' are often not broadly distributed. By comparison, an increase in baseline property tax rates would spread the costs of affordable units across all households, current and new. Affordable housing is a *community-wide need* and should therefore, be spread on a *community-wide basis*... not placed on the backs of those who happen to be able to build new housing, or as proposed, build a new commercial structure.

>Re-Evaluation of Vacant and Underutilized Property: While local government typically analyzes the property within its jurisdiction as part of a Housing Element update, we would re-emphasize the goal of creating more affordable housing. To maintain the fiscal viability of any given jurisdiction means having a sufficient supply of land available for economic development and job growth. Vacant parcels, long zoned for other uses, may no longer be viable for said use given growth and development patterns. For example, when done in conjunction with a re-

evaluation of underutilized property, it allows a city, for example, to look at land next to freeways for mini-storage facilities, thereby freeing up land elsewhere zoned for that same purpose but which can now be made available for housing.

>**True Density Bonus Programs:** Density bonuses are a zoning tool that that permits developers to build more housing units, taller buildings, or more floor space than normally allowed, in exchange for provision of a specified number or percentage of affordable units included in the development. Many jurisdictions already have some form of density bonus program. However, the density bonus program must be structured to provide a *true* density bonus making the project economically feasible and not just to offset the provision of affordable units. Working collaboratively, developers/builders and local government can ascertain the true density bonus needed to make a project 'pencil out.'

Density bonus programs encourage developers to create affordable dwelling units in areas where a need has been identified and density bonuses can be used to entice development to specific neighborhoods or zones. Two areas of caution: A.) It will take a commitment on the part of local government to approve (i.e., not reduce) said density bonuses as such incentives often provoke residents to protest the bonus and/or the project itself. B.) Simply relying on projects that are transit-oriented (the current popular planning maxim) often leads to exactions such as including open space (or park in-lieu fees) or other costs given the project's urbanization which negates the effects of the density bonus. In addition, the affordable housing density bonus should apply to and supersede any regulation on any property located within the boundaries of a Certified Local Coastal Plan. The last point may take state legislation to enact.

>**Density Bonus Set Aside Provisions:** If a project can be made to work financially, targeting specific 'set asides' refines the provision of affordable housing. Remember, a project can qualify for a density bonus *if* they provide the following set-asides for a period of **at least 30 years** as established by state law:

- 5% of the dwelling units for very low income households, earning no more than 50% of the AMI and paying no more in rent than the amount established for households earning up to 50% of the median income, OR
- 10% of the dwelling units for low income households, earning no more than 80% of the AMI and paying no more in rent than the amount established for households earning up to 80% of the median income, OR
- 10% of the dwelling units for moderate income households, earning no more than 120% of the AMI and paying no more in rent than the amount established for households earning up to 120% of the median income.

Projects may qualify for an additional density bonus to an established maximum provided the numbers of set-aside units are increased as follows:

- For each 1% increase in the percentage of very low income affordable units, projects will receive an additional 2.5% density bonus.
- For each 1% increase in the percentage of low income affordable units, projects will receive an additional 2% density bonus.

>Senior Housing Projects: State law provides an automatic 20% density bonus for housing projects where 100% of the units are set-aside for senior citizens. There are no income or rent restrictions for this bonus. According to the U.S. Census Bureau, the fastest growing population segment in the United States is persons 60 and older. In addition, the requirement that senior housing projects be constructed using a Special Use Permit (SUP) should be deleted. As an incentive to provide affordable housing for seniors, senior housing projects that set aside at least 10% of the units for low or moderate income seniors will qualify for an additional 15% density bonus, for a total density bonus of 35%. Typically, all senior housing projects are required to sign a covenant assuring that the units are restricted to seniors for a period of 30 years.

>Accessory Dwelling Units: Reviving the ‘Granny Flat’ concept can help municipalities generate more housing (and in particular, affordable housing); maintain sustainable communities; and, create dwellings where people can “age in place.” Granny Flats also address the changing needs of single-family home neighborhoods, which increasingly are accommodating young singles and couples, the elderly, immigrants, and the poor. In addition, Granny Flats can provide additional income for homeowners in a tough economy, low cost housing in a tight market, and (if the subject properties are so located) support transit-oriented development. There is also the benefit of increasing taxable property values and enabling growth without requiring new infrastructure.

Since 1986, California has had a Granny Flat law in place. Known as Government Code Section 65852.2 (The Second Flat Law), the statute is designed to provide affordable housing in population-dense areas, ease rental housing deficits and increase the property tax base. While California statutes recognized the need for and therefore authorized the construction of Granny Flats, there are still several challenges that can stymie the Granny Flat concept.

The biggest (and most overblown) are the fears from existing homeowners’ that there will be negative impacts on density and on their quality of life. And (real or perceived) this occurs with more frequency in more well-to-do neighborhoods.

Following closely in as a concern is adapting existing zoning codes to allow granny flats, particularly parking requirements. There is also the challenge of drafting local ordinances that preserve community character yet remove artificially placed barriers and/or facilitate the addition of Granny Flats.

Lastly, there are some local governments that are resistant to the concept. The basics are covered under state law. Where local government can significantly reduce barriers to the provision of accessory dwelling units is by:

- ✓ Taking each Granny Flat proposal on a case-by-case basis. (Most local governments handle the processing applications for Granny Flats in this manner.)
- ✓ Limiting the required parking to one uncovered parking space. Most local governments that are resistant to Granny Flats use parking requirements as a de facto prohibition against approving ADUs. (NOTE: The required two covered parking spaces for the main house are a separate issue to be addressed as a separate item by code compliance. In older neighborhoods, what may have started out as two covered parking spaces could easily have morphed over time [and with government approval] into something else.)

- ✓ Be flexible with setback requirements. While we recognized that locating the Granny Flat least 20 feet from the rear and 6 feet from the side property lines represent a minimum requirement, staff should be given the authority to approve a Granny Flat proposal with a rear setback of less than 20 feet (and similarly with side yard setbacks).
- ✓ Be flexible with the size of the ADU. If the existing lot warrants it, provide staff with the authority to approve a larger unit. (State law equates to a structure 25' x 25' which must include its own kitchen, bathroom but no more than 1 bedroom. Larger lots and/or a slightly larger ADU can easily be accommodated without stirring NIMBY fears.)

>For-Sale Condominium Developments: Condominium developments that set-aside 10% of the dwelling units for buyers who meet the criteria of moderate income households will qualify for a density bonus of 20%. For each additional 1% set-aside, the developer may receive an additional density bonus. It is the intent of this program that these units will be owner-occupied.

Also key to this program is equity recapture. The owner of the set-aside unit can sell that unit any time at an unrestricted price. However, by requiring that 50% of the difference in equity between the sale price and the initial sale price of the unit, the county can recoup affordable housing funds. This also allows the owner of the set-aside unit to capture a portion of their equity. These funds are to be used within three years for the construction, rehabilitation, or preservation of affordable housing by the county or they revert to the seller.

>Streamlined Review Processes: Most jurisdictions have utilized some form of 'fast track' processing when it comes to affordable housing projects. Setting up a true "One Stop Shop" will assist. Coordinating the departments responsible for reviewing housing projects (for example, planning, public works, parks, police, and fire) such that they ALL meet with the project proponents at the same time for review sessions avoids the A-to-B-to-C review scenario as often occurs. The key here is to ensure representatives from the departments responsible for reviewing housing projects have the authority to approve changes/modifications. In addition, the county must establish specific time frames for review and approval of projects that include affordable housing components and/or give staff the authority to do so.

>Land banking: Vacant, abandoned or underutilized properties are a challenging problem for any community. By viewing these properties as potential housing assets, rather than barriers to revitalization, affordable housing advocates (such as SAMCAR) can foresee this as a new way to reinvest in once-neglected neighborhoods.

Land banks are public authorities created to acquire, hold, manage and develop vacant properties. The concept behind a land bank is to convert vacant/underutilized properties that have been bypassed by the open market (or by local government in its review of housing inventory needs) into additional and for housing. A land bank acquires title to vacant, underutilized and abandoned properties via the fair market; eliminates barriers to redevelopment; and, transfers property to a new owner in a way that supports affordable housing needs and priorities. As such, land banks often provide marketable title to properties previously impossible to develop.

One of the most well-known land banks is the Genesee County Land Bank in Flint, MI. The Genesee County Land Bank has raised surrounding property values by \$109 million and has spurred \$60 million in new private investment, all during a major recession and foreclosure crisis.

>Affordable Housing Along Transit Corridors/Near Major Employment Centers

Projects that meet the following criteria will be granted an additional 10% density bonus:

- At or within a 1,500 foot radius of an existing or fully funded major bus center, bus stop along a major bus route, or mass transit station; or,
- At or within a 1,500 foot radius of an intersection of transit priority arterials; or,
- In or within a 1,500 foot radius of the boundaries of a major employment center; or,
- In or within a 1,500 foot radius of boundaries of a major economic activity area (such as a regional or sub-regional shopping center); and,
- Within 1,500 feet of the boundaries of a college or university.

>Project-Specific Incentives: Individual housing projects may request one or more of the following incentives, depending upon the income level of the targeted households, the percentage of set-aside units, and the location of the project/property orientation, in order to provide the affordable units:

- Up to 20% deviation from yard/setback requirements, or
- Up to 20% deviation from lot coverage requirements, or
- Up to 20% deviation from lot width requirements, or
- Up to 20% deviation from floor area requirements, or
- Up to 20% deviation from open space requirements, or
- Up to 20% additional building height, except as limited by local statute, or
- A reduction or waiver in parking to include:

>A reduction in parking requirements to 1 parking space per restricted dwelling unit irrespective of the number of habitable rooms.

>A reduction in parking requirements to not less than ½ parking space per dwelling unit for dwelling units restricted to Very Low or Low Income senior citizens.

