

**DATE:** January 27, 2026

**TO:** Honorable Mayor and City Council

**FROM:** Community Development

**VIA:** Kimbra McCarthy, City Manager

**TITLE:** **Senate Bill 79 and Assembly Bill 130—Impact on Development Review Process and Operations**



## STUDY SESSION MEMO

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### **RECOMMENDATION**

Receive Council input on potential approaches to addressing Senate Bill 79 and Assembly Bill 130.

### **EXECUTIVE SUMMARY**

The California Legislature has focused on passing legislation in recent years to address housing affordability and availability. [Senate Bill \(SB\) 79](#) and [Assembly Bill \(AB\) 130](#)<sup>1</sup> are two laws enacted in 2025 that are intended to address aspects of the housing development review process at the local level. AB 130 went into effect on June 30, 2025, and SB 79 will go into effect on July 1, 2026.

SB 79, codified at Government Code Section 65912.155, *et seq.*, supersedes locally adopted standards for density, floor area ratio (FAR), and height for housing projects proposed on qualifying sites located within one-half mile of a transit-oriented development (TOD) stop, if the development complies with certain requirements. **There are five qualifying transit stops in Mountain View** consisting of the two Caltrain stations and three Valley Transportation Authority (VTA) light rail stations (portions of Mountain View are also affected by one stop located in unincorporated Santa Clara County at Moffett Field). **SB 79 affects approximately 21% of the City's land area.**

AB 130 is a far-ranging bill containing many provisions related to housing development. This report focuses on AB 130's provisions related to environmental review under the California Environmental Quality Act (CEQA) (codified at Public Resources Code Section 21080.66) as well as the new timelines for taking final action on projects that are exempt from CEQA under AB 130 (as amended by SB 158 and codified at Government Code Section 65950(a)(7)). AB 130 created a new statutory exemption from CEQA for housing projects meeting specified criteria and requires local agencies to approve or disapprove these projects within 30 days of the conclusion of the deadline for providing objective standards consistency comments under the Housing Accountability Act or the conclusion of tribal consultation, whichever is later. A failure to act within this timeline results in the housing project being deemed approved.

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<sup>1</sup> The Legislature enacted some clean-up amendments to AB 130 with the passage of Senate Bill 158 ([SB 158](#)).

This report details the effects of SB 79 and AB 130 on the City of Mountain View's existing land use regulations and housing development review process, identifies City Code provisions that will present challenges with complying with these laws, and identifies potential actions the City Council may direct in response to the passage of these bills.

## **BACKGROUND**

### **Senate Bill 79**

#### Bill Summary

SB 79 establishes density, FAR, and height standards for housing projects located on qualifying sites within one-half mile of high-quality transit stops, superseding locally adopted standards. A local agency may adopt a TOD alternative plan that allows modification of these standards, subject to review and approval by the California Department of Housing and Community Development (HCD).

Projects proposed under SB 79 are subject to the local development review process, including any applicable discretionary review process, except that SB 79 includes provisions that allow projects meeting the requirements of Government Code Section 65913.4, *et seq.* (i.e., SB 35 and SB 423), to be reviewed and approved ministerially.

The ministerial review process is conducted at the staff level without a public hearing or environmental review under CEQA. The City has not seen widespread usage of SB 35/SB 423 for private development projects. Staff assesses the primary reason is that projects involving more than 10 units must pay the prevailing wage, which can significantly increase construction labor costs. Staff has seen frequent use of SB 35/SB 423 by 100% affordable housing projects since those projects are typically required to pay prevailing wage to qualify for government financing.

There are six categories of allowable developments under SB 79 based on a site's distance from a pedestrian access point<sup>2</sup> to a TOD stop<sup>3</sup>. The standards summarized in Table 1 are the minimums a local jurisdiction must allow under SB 79:

**Table 1: SB 79 Development Regulations Based on Distance from a TOD Stop**

|  |                                     | Distance from Pedestrian Access Point to a TOD Stop |   |                |   |
|--|-------------------------------------|---|---|----------------|---|
|  | Tier 1 TOD Stop<br>(i.e., Caltrain) |   | Tier 2 TOD Stop<br>(i.e., VTA Light Rail) |                | “Adjacent” (within 200')<br>Bonus height, density,<br>and residential FAR |
|  | Up to 1/4-mile                      | Up to 1/2-mile                                      | Up to 1/4-mile                            | Up to 1/2-mile |   |
| Height   | 75'                                 | 65'   | 65'                                       | 55'            | +20'  |
| Density  | 120 du/ac                           | 100 du/ac   | 100 du/ac                                 | 80 du/ac       | +40 du/ac   |
| Residential floor area ratio (FAR)   | 3.5                                 | 3.0   | 3.0                                       | 2.5            | +1.0  |
| Density qualifying for additional State Density Bonus Law concessions <sup>4</sup> | 90 du/ac                            | 75 du/ac  | 75 du/ac                                  | 60 du/ac       | N/A   |

SB 79 also includes specific provisions for development located on a site owned by a transit agency. These provisions are detailed in Government Code Section 65912.158.

In addition to the standards based on distance from a TOD stop in Table 1 above, there are several other criteria that projects must meet to qualify under SB 79, as detailed in Attachment 1, SB 79 Housing Project Criteria. The following criteria are of particular relevance to considering the impact of SB 79 in Mountain View:

- Located on a site zoned for residential, commercial, or mixed-use development.
- Not located on a site that meets either of the following criteria:
  - A site containing more than two units where the development would require the demolition of housing that is subject to any form of rent or price control<sup>5</sup> that has been occupied by tenants within the past seven years.

<sup>2</sup> SB 79 specifies that distance shall be measured in a straight line from the nearest edge of the parcel containing the proposed project to a pedestrian access point for the TOD stop. The City may identify locations within one-half mile of a TOD stop as exempt from SB 79 if it finds that there exists no walking path of less than one mile from that location to the TOD stop.

<sup>3</sup> “Transit-oriented development stop” is defined in Government Code Section 65912.156(p). Within Mountain View, the definition includes Caltrain and VTA light rail stations based on their high-frequency rail service.

<sup>4</sup> Note that a qualifying project may use the standards in SB 79 as its base density under SB 79; however, if the project exceeds the City's height limit due to the provisions of SB 79, the City is not required to grant an additional height waiver or concession under the State Density Bonus Law.

<sup>5</sup> In Mountain View, this would generally include apartments with three or more units built before 1995 that are considered “fully covered” under the City's Community Stabilization and Fair Rent Act (CSFRA).

- A site that was previously used for more than two units of housing that were demolished within seven years before submission of an application to develop under SB 79, and any of the units were subject to any form of rent or price control.
- Minimum of five dwelling units.
- Minimum density that is the greater of: (i) at least 30 dwelling units per acre; or (ii) the minimum density required under local zoning (if applicable).
- Average total floor area of proposed units shall not exceed 1,750 net habitable square feet.
- Comply with local standards, including an inclusionary zoning requirement as well as applicable local objective General Plan and Zoning standards, that do not, alone or in concert, prevent achieving the applicable development standards allowed under SB 79 or apply increased standards based on a project's eligibility for review and approval under SB 79.
- Result in no net loss of existing residential units on a project site and shall comply with any local demolition and anti-displacement standards established through local ordinance.

A more extensive summary of SB 79 can also be found in Attachment 2, ABAG/MTC SB 79 Summary.

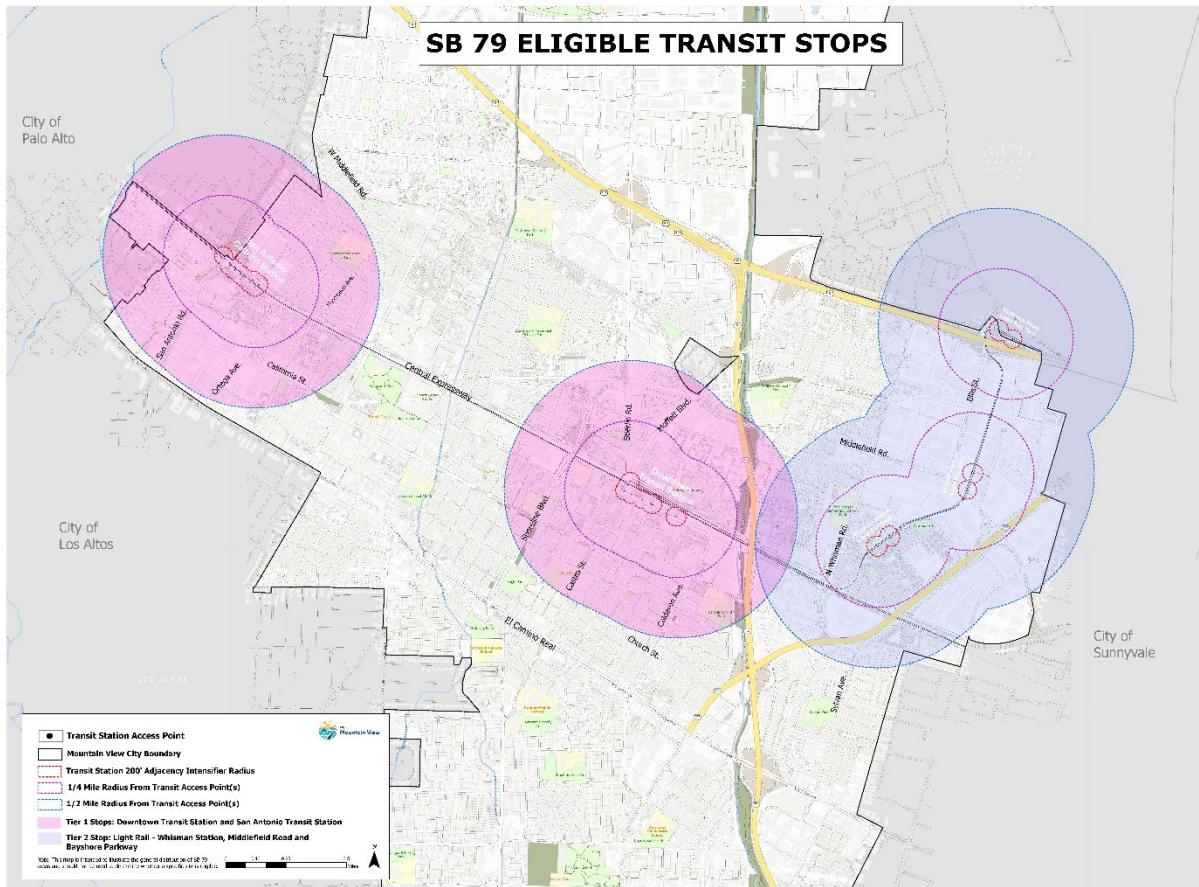
### SB 79 Eligible Areas

Implementation of SB 79 is limited to sites that meet specific qualifying criteria, including applicable zoning designations and locations within defined distances of high-quality transit stops. The following section describes these criteria, including the Tier 1 and Tier 2 transit classifications, and identifies the SB 79 impact areas within the City.

Qualifying transit stops are categorized into two tiers:

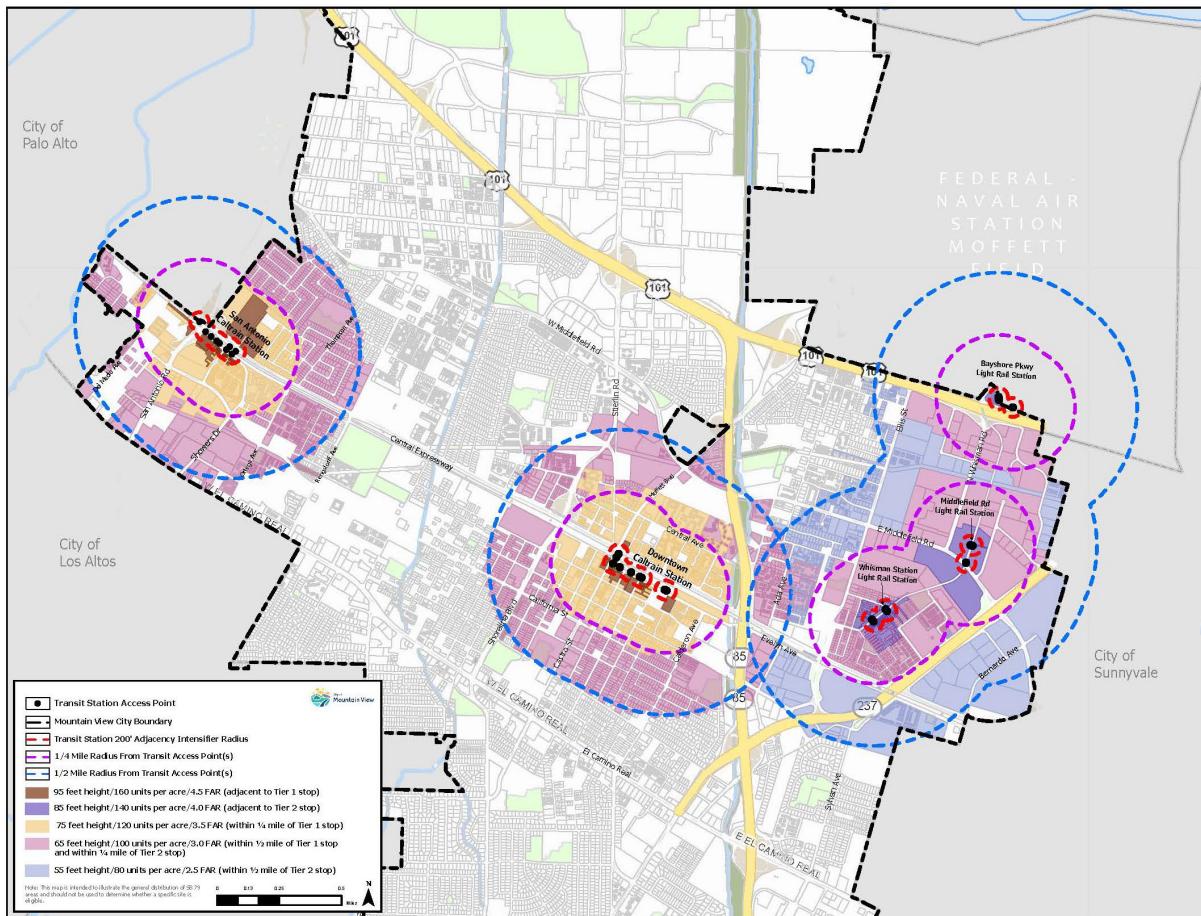
- Tier 1: Heavy Rail Stations. In Mountain View, these include the Downtown Caltrain Station and the San Antonio Caltrain Station.
- Tier 2: Light Rail Stations. In Mountain View, these include the Downtown, Whisman Station, and Middlefield VTA Light Rail Stations. A third qualifying Tier 2 station, the Bayshore/NASA VTA Light Rail Station, is located outside of Mountain View in unincorporated Santa Clara County; however, approximately half of its TOD zone falls within the City of Mountain View, and, thus, the properties within the TOD zone that are within the City may still qualify for SB 79.

For each Tier 1 and Tier 2 TOD stop, SB 79 establishes three concentric geographic areas to which varying zoning provisions apply: areas within 200' of a stop (considered “adjacent” to the TOD stop), within one-quarter mile of a stop, and within one-half mile of a stop (see Figure 1).



**Figure 1: SB 79 Eligible Transit Stops**

Figure 2 illustrates the SB 79 TOD zones surrounding the five eligible transit stops affecting the City of Mountain View. While SB 79 requires local Metropolitan Planning Organizations (MPOs) to develop and provide official maps identifying the applicable TOD zones, **these maps have not yet been published**; therefore, City staff prepared the SB 79 eligible area maps shown in Figures 1 and 2 for informational and planning purposes to facilitate a discussion of SB 79’s impacts on Mountain View at this time.



**Figure 2: SB 79 Eligible Areas in Mountain View**

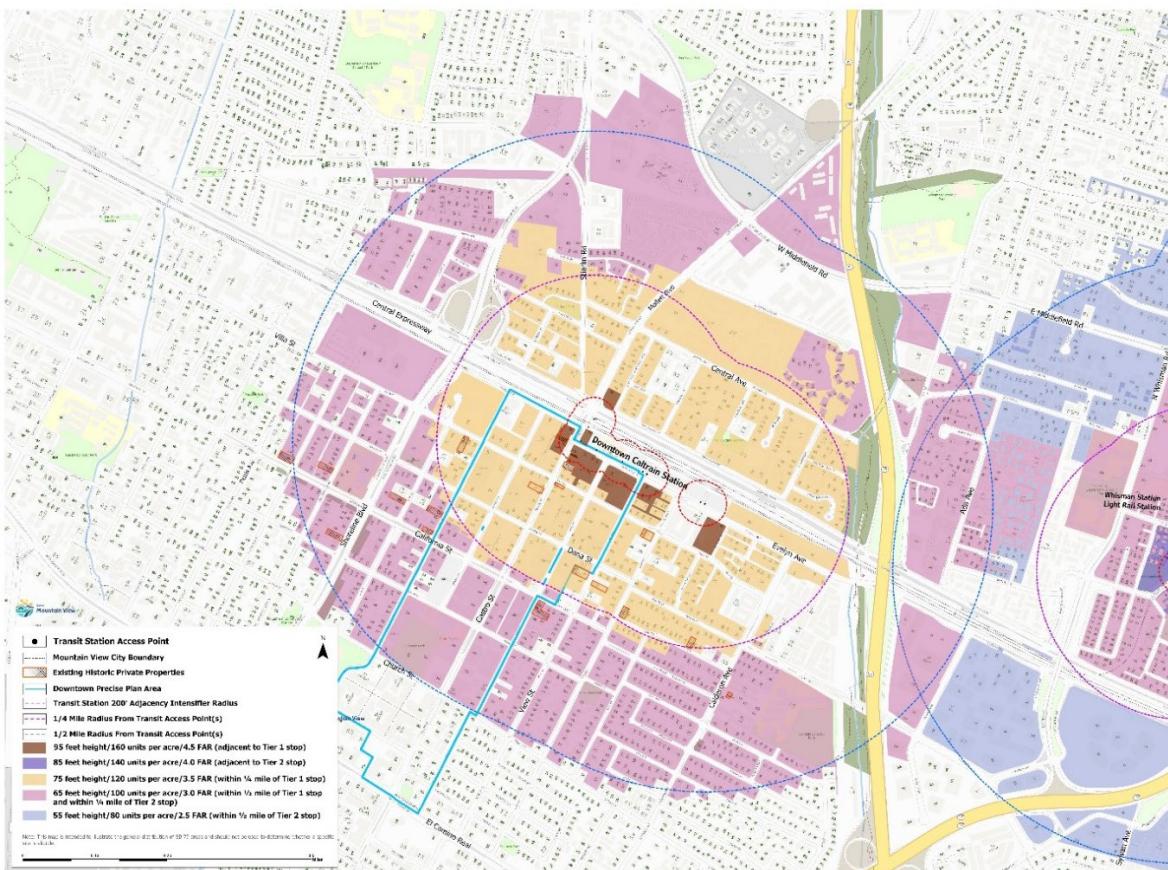
### Implications for Mountain View

The effect of SB 79 in Mountain View will vary widely based on existing land uses and development regulations. The areas affected by SB 79 range from areas constructed with and zoned for low-density, single-family residential development to areas envisioned for some of the most intensive redevelopment in the City in newer precise plans like the San Antonio Precise Plan and East Whisman Precise Plan.

Areas consisting of single-family and two-family (i.e., duplex) residential development, such as large portions of the Old Mountain View and Monta Loma neighborhoods, will experience the greatest changes in allowable uses, development density, building height, and residential FAR under SB 79.

## Sensitive Sites within SB 79-Eligible Areas

SB 79 could affect sites in Mountain View that are considered sensitive. These could include sites listed on or eligible for listing in the State and National Registers of Historic Places, such as several located within the City's downtown TOD zone, that were not already included in the Mountain View Register of Historic Resources as of January 1, 2025 (see Figure 3).



**Figure 3: SB 79 Eligible Sites in Downtown TOD Zone**

SB 79 does not provide automatic protections for these historic sites.<sup>6</sup> To temporarily exclude sites with designated historic resources from SB 79's provisions, the City must adopt an ordinance subject to certain limitations discussed later in this report. Therefore, development meeting SB 79 requirements could potentially occur on or adjacent to these properties. As a result, there

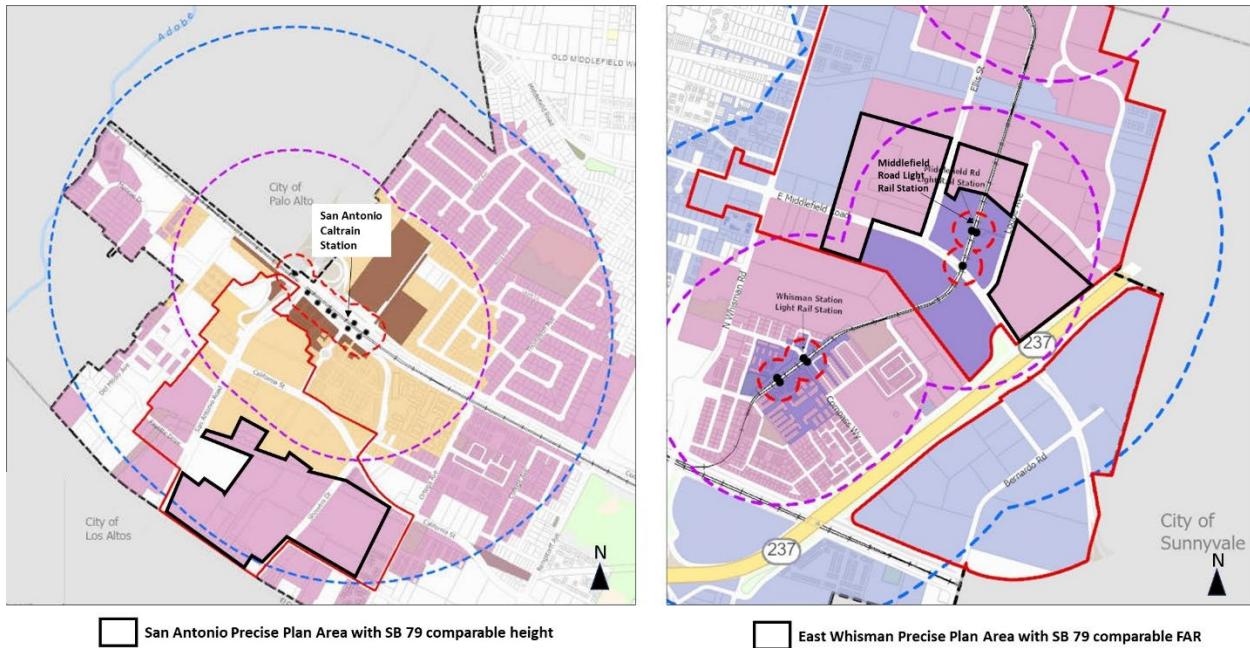
<sup>6</sup> This is the case, in part, because AB 130 establishes a new statutory exemption from CEQA review for most housing projects, which is likely to include SB 79 projects. Although a project may not be exempt from CEQA under AB 130 if it requires demolition of a historic structure that is already placed on a national, state, or local historic register at the time of preliminary application submittal, it may qualify for the exemption if it involves demolition of historic resources that are eligible for listing on a national or state historic register but are not yet included in the local, state, or national registers of historic places.

is a risk that locally valued historic and cultural resources that are not listed on a federal, state, or local historic register could be altered or adversely impacted under SB 79.

#### *Areas Already Allowing Approximate SB 79 Height, Density, or Residential FAR*

Only a few areas within the City currently allow height, density, or residential FAR comparable to those prescribed under SB 79. Specifically, the East Whisman Precise Plan's High-Intensity Mixed-Use Character Area allows similar FAR to the area within one-quarter mile of the VTA light rail station (i.e., Tier 2) but less than what is allowed within 200' of (i.e., adjacent to) the VTA light rail station. Some sites within the San Antonio Precise Plan's Mixed-Use Center subarea also allow a similar height to the area within one-half mile of Caltrain (i.e., Tier 1).

Staff's initial assessment of these areas is shown in Figure 4. The remaining areas within the SB 79 TOD zones could experience development intensities significantly higher than those currently allowed under City regulations, potentially altering the scale, character, and density of development in these neighborhoods.



**Figure 4: SB 79 Intensity Comparable Areas**

#### Likelihood of Development Under SB 79

It is difficult to predict whether developers will make widespread use of SB 79 once it takes effect on July 1, 2026. In some cases, the most desirable use on small parcels will remain single-family residential development despite more intensive development being allowed under SB 79. Moreover, constructing at the maximum densities allowed under SB 79 on the small lots typical

across the affected areas will encounter various challenges related to feasibility (i.e., fitting a structure that maximizes the development potential under SB 79 onto available land may not be physically or economically feasible on smaller sites).

Staff's experience with past development streamlining efforts enacted by the California Legislature, combined with general experience with development review, suggests a continuation of past trends—a small number of well-resourced and highly sophisticated developers will have the wherewithal to pursue large-scale projects that take advantage of increased development potential afforded under SB 79, while most other property owners will only pursue incremental changes to their properties over time.

#### *State Density Bonus Law*

A project utilizing SB 79 is eligible to seek a density bonus, incentives or concessions, waivers or reductions of development standards, and parking ratios pursuant to State Density Bonus Law (SDBL).<sup>7</sup> The density allowed under SB 79 serves as the base density for calculating the density bonus. If a development proposes a height allowed by SB 79 that is in excess of the local height limit, then the City shall not be required to grant a waiver, incentive, or concession pursuant to SDBL for additional height beyond that specified in SB 79, except as provided in Government Code Section 65915(d)(2)(D) for 100% affordable housing projects located within one-half mile of a major transit stop or located in a very low vehicle travel area in a designated county. Projects eligible under this provision shall receive a height increase of up to three additional stories, or 33'.

SB 79 also provides additional concessions for a project that meets the applicable density threshold specified for its location, as follows:

- Three additional concessions for a development providing housing for extremely low-income households.
- Two additional concessions for a development providing housing for very-low-income households.
- One additional concession for a development providing housing for low-income households.

#### *Feasibility Considerations*

While SB 79 provides new development opportunities to owners of qualifying properties, feasibility may constrain its near-term implementation on a significant number of properties, including for the following reasons.

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<sup>7</sup> Government Code Section 65915.

Borrowing, materials, and labor costs are currently high. It is uncertain when these costs may fall. Property owners may not wish to commit to major developments in this uncertain environment. Adding to costs, SB 79 requires developers of buildings taller than 85' to pay prevailing wages for construction labor, which can add significantly to construction costs, rendering many projects financially infeasible.<sup>8</sup> Furthermore, there is a limited number of experienced architects, developers, engineers, construction workers, and other professionals able to implement the complex requirements of infill development of the type contemplated in SB 79. If SB 79 spurs increased demand for infill development in the region, the costs of these professionals' services may rise, adding further financial pressures on project feasibility.

Most properties in these areas are currently occupied by tenants or owners, who are receiving value from the existing buildings. At any given time under these conditions, only a small percentage of property owners are interested in site redevelopment, which is associated with temporary cessation of use (for owner- and renter-occupied sites) and revenue generation from the site (for renter-occupied sites), on top of significant additional costs for construction of a new project.

Most parcels in downtown, Monta Loma, Whisman Station, and other areas are too small to accommodate development at very high densities. The primary constraint is parking—a small site cannot accommodate very many parking spaces at surface level or the vehicle ramps necessary to create multiple parking levels in aboveground or belowground garages that the market typically demands. While parking is not required in the areas subject to SB 79 (i.e., within one-half mile of a TOD stop) pursuant to another state law, AB 2097, staff's experience with projects proposed since enactment of AB 2097 in 2022 is that market-rate developers will continue to provide off-street parking since market-rate renters and buyers will expect some amount of private off-street parking for their use (staff has experienced significant reductions in off-street parking in 100% affordable housing projects, but there tends to be relatively few projects of this type). In addition, small parcels do not easily support the efficient configuration of multiple units within a building while allowing for corridor access and for light and air to reach the bedrooms and common rooms of every unit, as required by the California Building Code.

The latter two factors have a history of constraining development in the areas subject to SB 79. For example, since the adoption of the Downtown Precise Plan in 1988 (and possibly earlier), Area H (the first three blocks of Castro Street closest to the train station and containing the "historic retail core" of downtown) has allowed up to 50 dwelling units per acre. So far, no developer has submitted a formal application for housing in Area H, even in prior years when the

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<sup>8</sup> It is unclear the extent to which SB 79's prevailing wage requirement will affect development feasibility in practice. SB 79 allows local agencies to limit maximum height to 75' in most cases, and the height limit typically cannot be waived through SDBL. Notable exceptions where height may exceed 75' include projects on transit agency property, projects adjacent to a pedestrian access point to a TOD stop, and 100% affordable housing projects eligible for additional height under the SDBL.

economics of development were more favorable than they are today. Thus, it is unclear what effect SB 79 will have in generating new project proposals.

### SB 79 and Peer Jurisdictions

SB 79 applies to many other Bay Area jurisdictions with Tier 1 and Tier 2 TOD stops. Staff researched how other peer jurisdictions in the South Bay and Peninsula are affected by SB 79 and how they compare to the impacts on Mountain View. Seven peer jurisdictions were selected based on characteristics similar to Mountain View (i.e., population size, transit service, downtowns/historic districts near transit). San Jose was excluded due to its larger population and because a sizable portion of the city is affected by more robust transit service (over 50 stations). Staff reached out to planning staff in the peer jurisdictions to see how they plan to address SB 79. Table 2 below outlines the findings of staff's research.

**Table 2: SB 79 and Peer Jurisdictions, Compared with Mountain View**

| Jurisdiction         | Number of Transit-Oriented Development Stops Within Jurisdiction | Number of Neighboring Jurisdiction Transit-Oriented Stops Affecting Jurisdiction | Total City Land Area within TOD Zones (approx.) | Downtown or Historic District Affected? | Status of SB 79-Related Efforts  |
|----------------------|--|--|---|---|--|
| <b>Mountain View</b> | <b>Five</b> (two Caltrain, three VTA light rail)                 | <b>One</b> (VTA light rail in unincorporated County)                             | 21%   | Downtown                                | Subject to City Council direction.   |
| <b>Campbell</b>      | <b>Three</b> (all VTA light rail)                                | <b>One</b> (VTA light rail in San Jose)  | 27%   | Downtown and Historic District          | Options for implementation to be presented to Council in March 2026.   |
| <b>Milpitas</b>      | <b>Four</b> (three VTA light rail, one BART)                     | <b>Two</b> (VTA light rail in San Jose)  | 14%   | Downtown                                | No plans to pursue a TOD alt. plan.  |
| <b>Palo Alto</b>     | <b>Two</b> (Caltrain)  | <b>One</b> (Caltrain in Mountain View)   | 6%  | Downtown and Historic District          | Initial findings presented to Council in October 2025. No updates since, but upcoming sessions with Council anticipated in 2026. |
| <b>Redwood City</b>  | <b>One</b> (Caltrain)  | <b>None</b>  | 4%  | Downtown and Historic District          | Staff is in the early stages of considering options for implementation.  |

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|--------------------|---|---|---|---|---|
| <b>San Mateo</b>   | <b>Three</b> (Caltrain)   | <b>One</b> (Caltrain in Burlingame)   | 20%   | Downtown and Historic District          | Anticipates adopting SB 79 provisions into city code. No plans for a TOD alt. plan. |
| <b>Santa Clara</b> | <b>Five</b> (one combined Caltrain/Amtrak/ACE Rail, one combined Amtrak/ACE Rail, and three VTA light rail) | <b>Seven</b> (five VTA light rail in San Jose, one VTA light rail, and one Caltrain in Sunnyvale) | 13%   | Downtown and Historic District          | Staff is considering options for an implementation ordinance.                       |
| <b>Sunnyvale</b>   | <b>Nine</b> (two Caltrain and seven VTA light rail)   | <b>Two</b> (VTA light rail in Mountain View and unincorporated County)                            | 22%   | Downtown and Historic District          | Exploring feasibility of a TOD alt. plan.   |

Mountain View has the third-largest number of eligible TOD stops and the third-highest proportion of land area affected by SB 79 among the seven comparison jurisdictions. These characteristics increase the potential impacts of SB 79 on development in Mountain View and add to the challenges associated with developing a local alternative plan in response to SB 79. At this time, peer jurisdictions are in the early stages of addressing SB 79 with some holding briefings for their respective councils and contemplating a local alternative plan. Two jurisdictions stated they have no plans to pursue a local alternative plan.

#### Local Ordinances and Alternative Plans

The City may, but is not required to, adopt local provisions to implement SB 79. These provisions may include:

- Objective development standards, conditions, and policies that do not preclude development at the densities prescribed by the statute;
- A TOD alternative plan which allows cities to reallocate density within the areas affected by SB 79 (with certain limitations as further described below and in Table 3); and
- Additional exemptions (some of which are time-limited) that require a local ordinance but do not need to be included in a TOD alternative plan (as shown in Table 3).

SB 79 includes procedural requirements for any local ordinance adopted to deviate from its base standards. These include a requirement for approval by HCD. The City is required to provide HCD with a review and comment period of at least 14 days prior to ordinance adoption and to submit the ordinance to HCD within 60 days after adoption. HCD has up to 120 days to find whether the ordinance is in substantial compliance with SB 79. An ordinance is deemed compliant with SB 79 if HCD does not respond within the 120-day review period.

TOD alternative plans may be approved through a local ordinance or an update to the Housing Element of the General Plan (which also undergoes review by HCD). HCD approval of any TOD alternative plan is valid through the next amendment to the Housing Element.

#### *TOD Alternative Plans*

A TOD alternative plan provides some measure of local control over the application of SB 79. Most importantly, it allows a local agency to shift density away from certain sites to other sites identified as more appropriate for increased development. However, SB 79 places important limits on what can be achieved in a TOD alternative plan, by requiring a plan to comply with the requirements in Table 3.

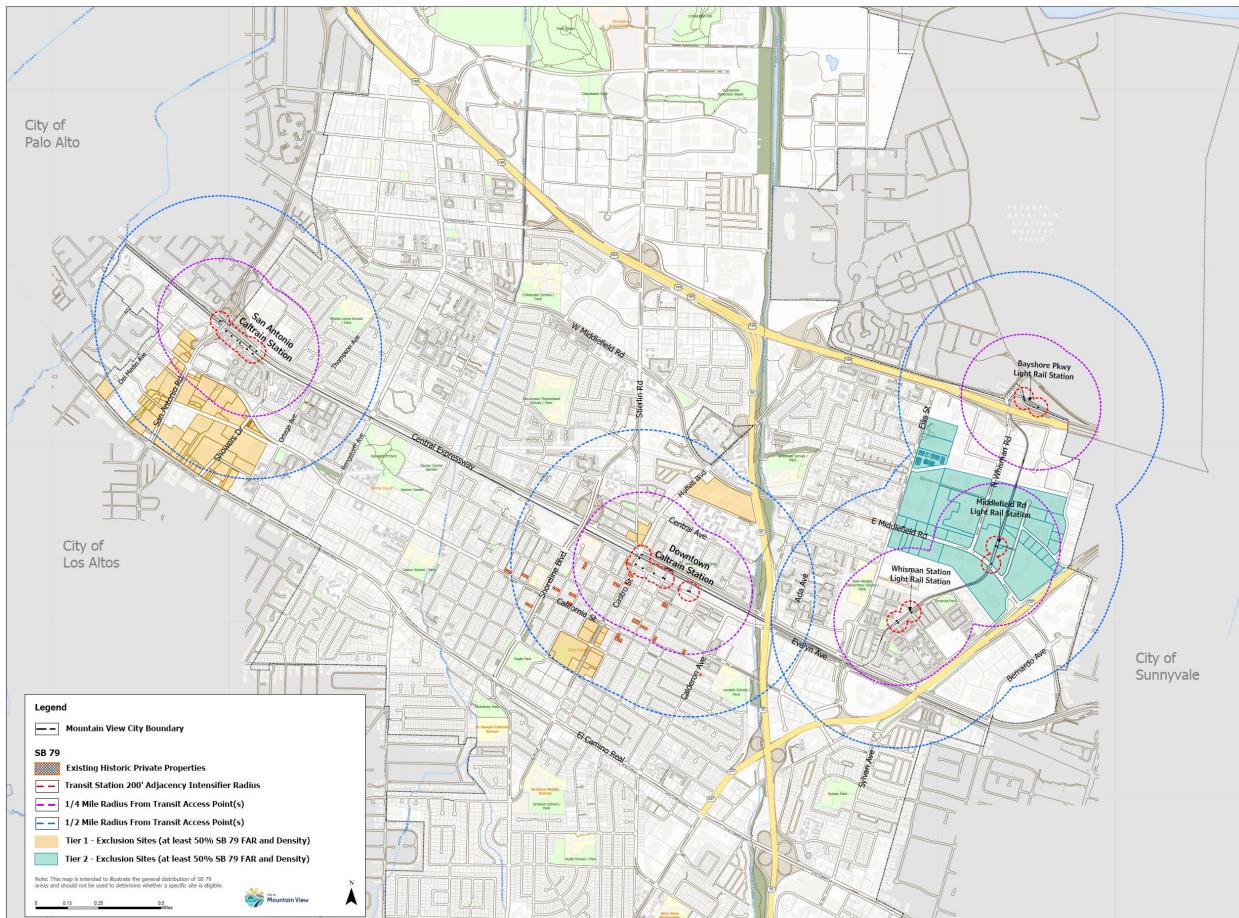
**Table 3: SB 79 TOD Alternative Plan Requirements**

| <b>TOD Alternative Plan Requirement</b> |   |
|---|---|
| 1.                                      | <p>The plan shall maintain at least the same total net zoned capacity, in terms of both total units and residential floor area, as provided for in SB 79 across all TOD zones within the jurisdiction.</p> <ul style="list-style-type: none"><li>Net zoned capacity in units shall be measured by subtracting the current number of units on the site from the number allowed by the applicable development standards.</li><li>Net zoned capacity in floor area shall be measured by subtracting the current developed floor area of the site from the amount allowed by the applicable development standards.</li></ul> <p><u>NOTE:</u> Calculating net zoned capacity in units and residential floor area will require a parcel-level analysis of existing and potential units/residential floor area for every site subject to a TOD alternative plan.</p> |

| <b>TOD Alternative Plan Requirement</b> |  |
|---|--|
| 2.                                      | <p>The plan shall not reduce the maximum allowed density for any individual site on which the plan allows residential use by more than 50% below that permitted under SB 79, except for sites meeting any of the following criteria:<sup>9</sup></p> <ul style="list-style-type: none"><li>• Sites with a historic resource designated on a local register so long as sites excluded from the density requirements on that basis do not cumulatively exceed 10% of the eligible area of any TOD zone.</li><li>• Sites within one-half mile of a Tier 2 TOD stop shall not have a density below 30 units per acre with a residential FAR of 1.0, except for sites with a historic resource designated on a local register, and should be considered for attached entry-level, owner-occupied housing development opportunities.</li></ul> |
| 3.                                      | The plan shall not reduce the capacity in any TOD zone in total units or residential FAR by more than 50%.   |
| 4.                                      | A site's maximum capacity counted toward the plan shall not exceed 200% of the maximum density established under SB 79.  |
| 5.                                      | Any site excluded from the minimum density requirements due to the presence of a historic resource designated on a local register shall not be counted toward the plan's capacity <sup>10</sup> (see Figure 5).  |
| 6.                                      | Calculations regarding capacity, density, and FAR shall include capacity, density, or FAR available under voluntary local housing incentive programs.  |

<sup>9</sup> SB 79 also allows reductions below 50% of the SB 79 density on sites within a very high fire hazard severity zone (VHFHSZ) and sites that are vulnerable to 1' of sea level rise (SLR); however, there are no sites within a VHFHSZ in Mountain View, and none of the areas within Mountain View subject to 1' of SLR are located within one-half mile of a TOD stop.

<sup>10</sup> This means that all of the density on such sites to accommodate a historic resource must be shifted to one or more other sites for purposes of the TOD alternative plan. To the extent that a site with a historic resource retains some development potential, that may be factored in to the City's net capacity analysis.



**Figure 5: Sites Eligible for SB 79 Exclusions**

**Adoption of a TOD alternative plan effectively “turns off” the SB 79 requirements included in Government Code Section 65912.157 (summarized in Table 1 and Attachment 1) upon HCD approval of the plan.<sup>11</sup>** This means that many of the limitations on SB 79’s applicability, such as prevailing wage requirements, height limits, affordable housing requirements, etc., would not apply once a TOD alternative plan is in place.

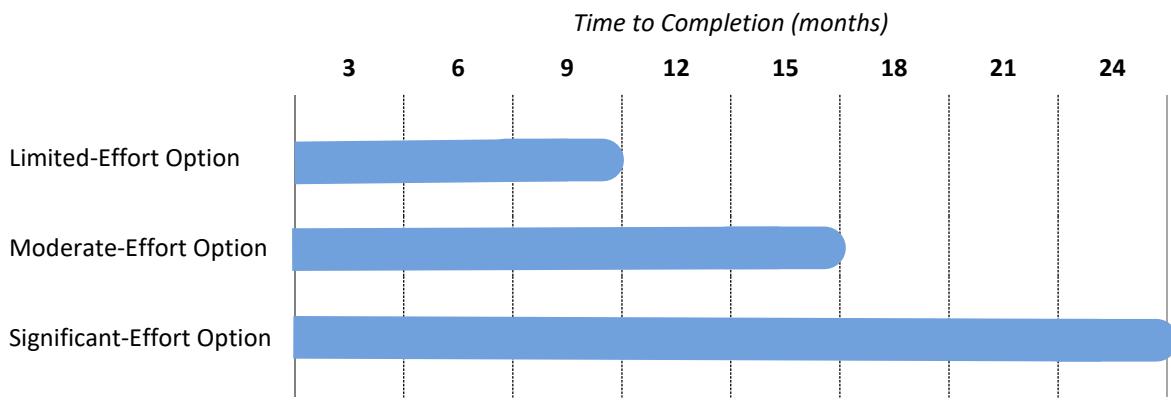
## **ANALYSIS**

### **Options for a Local Ordinance or TOD Alternative Plan**

The City Council may consider different approaches if it is interested in preparing an ordinance and/or TOD alternative plan to implement SB 79. The approaches available to Council would include different levels of effort, time, and resources required by staff.

<sup>11</sup> See Government Code Section 65912.161(d).

The following discussion categorizes these approaches into “Limited,” “Moderate,” and “Significant” effort options. These levels of effort could vary, requiring more or less effort and time to complete, as demonstrated in Figure 6. Estimates for completion reflect only the anticipated technical and environmental review work required to prepare the alternative plans, as well as the procedural requirements for plan adoption, which include public noticing and hearings at the Environmental Planning Commission (EPC) and City Council, which take approximately two months. Timelines could be longer depending on whether Council directs a community engagement process as part of the planning activities and the type and extent of that community engagement.



**Figure 6: Example Timeframes for TOD Alternative Plan Options**

#### Limited-Effort Options

Staff has identified two potential options that would require a limited effort to pursue. These options are not technically “TOD alternative plans” within the meaning of SB 79. However, staff is presenting these options within the framework of TOD alternative plan consideration because they require Council direction to staff to perform new planning work and will require Council deferral of other ongoing work by staff (discussed in more detail in a later section of this report). Thus, staff recommends considering these options along with the other options discussed in this section of the report.

##### *Limited-Effort Option No. 1—SB 79-Provided Exclusions*

Government Code Section 65912.161(b), as summarized below, outlines a process by which the City may adopt an ordinance excluding certain sites from the provisions of SB 79. These sites would not be subject to SB 79’s provisions during the period from the effective date of the ordinance until one year following adoption of the Seventh Cycle Housing Element, or until approximately January 31, 2032. The following sites/areas<sup>12</sup> summarized in Table 4 can be

<sup>12</sup> SB 79 also includes provisions for sites within low resource areas; however, there are no low resource areas within SB 79 TOD zones in Mountain View.

excluded with this approach, **and density/residential FAR would not need to be shifted to other sites, as with other options discussed later in this memo.**

**Table 4: SB 79 “Limited-Effort” Ordinance Exclusions**

|    | <b>Site Types</b>   |
|----|---|
| 1. | A site with a historic resource designated on a local register as of January 1, 2025.<br><br><i>Figure 5 identifies resources that would qualify in this category.</i>  |
| 2. | A site that permits density and residential FAR at no less than 50% of the SB 79 standards.<br><br><i>Figure 5 includes staff’s initial site analysis for this exclusion.</i>   |
| 3. | A site in which at least 33% of sites in the relevant TOD zone have permitted density and residential FAR no less than 50% of the SB 79 standards and which includes sites with densities that cumulatively allow for at least 75% of the aggregate density for the TOD zone.<br><br><i>Staff has not yet performed this analysis but does not believe any sites of this type exist in Mountain View.</i> |
| 4. | A site in a TOD zone that is primarily comprised of a low-resource area, which includes sites with densities that cumulatively allow for at least 40% of the aggregate density for the TOD zone specified under SB 79.<br><br><i>Staff has not yet performed this analysis but does not believe any sites of this type exist in Mountain View.</i>  |
| 5. | A site that requires more than one mile of walking distance to access a TOD transit stop.<br><br><i>Staff has not yet performed this analysis but believes a small number of sites may be in this category.</i>   |

Definitive identification of these areas will require additional staff analysis. However, staff’s preliminary analysis has identified the areas shown in Figure 5 that are likely to qualify for exclusion pursuant to Government Code Section 65912.161(b).

Pursuing this limited-effort option would moderate some of the effects of SB 79 through 2032 and result in repurposing the fewest resources currently committed to other planning activities and work plan items.

**Estimated Time to Complete:** **Six to nine months** (finalization could be dependent on factors outside the City's control, such as MPO publication of the official TOD zone maps and action by HCD, given the nearer-term time frame for completion of this option).

**Estimated Start Date:** Staff could start this work immediately upon deferral of other current work items.

*Limited-Effort Option No. 2—Implementation Standards*

SB 79 will implement development densities, height, and residential FAR in excess of those intended for most areas with TOD zones. The City's existing General Plan and zoning standards do not account for such development in most cases. SB 79 would prohibit the City from imposing any development standard that prevents a project from achieving the density, height, and residential FAR allowed by the law. **Without City adoption of appropriate development standards that facilitate development as allowed under SB 79, the City may be left without many (or possibly any) applicable development standards for SB 79 projects.** Fortunately, the City has an ongoing planning process that includes objective development standards to facilitate development at roughly the densities contemplated in SB 79.

The City Council is tentatively scheduled to consider staff's recommendations on proposed objective development standards as part of the R3 Zoning Update process on February 10, 2026. These will include development standards for five R3 zoning subdistricts with a maximum density range from 20 dwelling units per acre (R3-A subdistrict) to 110 dwelling units per acre (R3-D2 subdistrict), as shown in Table 5:

**Table 5: Proposed R3 Zoning Subdistrict Maximum Densities**

| R3 Subdistrict | Maximum Density Dwelling Units Per Acre |
|----------------|---|
| R3-A           | 20                                      |
| R3-B           | 25                                      |
| R3-C           | 35                                      |
| R3-D           | 65                                      |
| R3-D2          | 110                                     |

The development standards for the R3 Zoning Update are intended to successfully facilitate development at the intended densities. Under this option, the City would adopt an ordinance requiring a project invoking SB 79 to use the zoning standards of the R3 zoning subdistrict with the most comparable density to the proposed project. This would help to improve many aspects

of project design and minimize the adverse impacts on surrounding neighborhoods from SB 79 projects proceeding without applicable objective development standards (the only objective development standards included in SB 79 are density, height, and residential FAR).

Using the R3 Zoning Update standards to implement SB 79 projects would provide the only readily available starting point from which to impose relevant development standards or to begin a refinement process to modify and align zoning standards to the unique considerations of SB 79 projects. For example, the most intensive R3 zoning subdistricts (R3-D1 and R3-D2) are focused on larger parcels to improve the feasibility of development. Modifications to the R3 zoning subdistrict standards may be necessary with this option to address circumstances where high-density projects are proposed on smaller lots, which is a potential outcome under SB 79.

***Estimated Time to Complete:*** Six to nine months.

***Estimated Start Date:*** Staff recommends starting this work after completion of the R3 Zoning Update, currently anticipated by Q4 2026.

#### Moderate-Effort Options

Staff has identified two potential options that would require a moderate effort to pursue. These may be undertaken independently or in concert.

##### *Moderate-Effort Option No. 1—Downtown Focus*

This option would take a downtown-focused approach based on the TOD zone surrounding the Downtown Caltrain and VTA light rail stations to exclude currently listed and newly listed historic resources added to the local register pursuant to the Historic Preservation Ordinance Update (estimated to be completed in Q2 2026) and also reduce allowable density and residential FAR in Area H of the Downtown Precise Plan (which includes the 100, 200, and 300 blocks of Castro Street) on sites that are not eligible for listing in the local register (see Figure 6).



**Figure 6: Downtown Precise Plan Subareas**

Allowable density and FAR on these sites would be established as closely as possible to the existing provisions of the Downtown Precise Plan such that SB 79's additional development potential does not act as an incentive to redevelop these sites. A moderate level of technical and environmental analysis will be needed to determine which sites must transfer their density/residential FAR and to determine which sites within TOD zones in Mountain View are suitable to receive the density/residential FAR.

*Moderate-Effort Option No. 2*

This option would be similar to Moderate-Effort Option No. 1 but would focus on a TOD zone other than the Downtown Caltrain/VTA light rail TOD zone. This could include the following:

- San Antonio Caltrain TOD zone (affecting areas within the San Antonio Precise Plan and the Greater San Antonio and Monta Loma neighborhoods).
- Whisman Station VTA Light Rail TOD zone (affecting areas within the East Whisman Precise Plan, 111 Ferry Morse Way Precise Plan, and South Whisman Precise Plan and the Slater, Whisman Station, and Wagon Wheel, and Sylvan Park neighborhoods).
- Middlefield VTA Light Rail TOD zone (affecting areas within the East Whisman Precise Plan and South Whisman Precise Plan and the Slater, Whisman Station, and Wagon Wheel neighborhoods).
- Bayshore/NASA VTA Light Rail TOD zone (this stop is located outside of Mountain View, but approximately half of the TOD zone is within Mountain View and affects areas in the East Whisman Precise Plan and the Wagon Wheel neighborhood).
- Downtown Caltrain TOD zone (expanding beyond Moderate-Effort Option No. 1 to include other affected areas of the Downtown Precise Plan, Villa Mariposa Precise Plan, and Evelyn Avenue Corridor Precise Plan and the Old Mountain View, Shoreline West, Moffett, Willowgate, Jackson Park, Rex Manor, Stierlin Estate, and Slater neighborhoods).

Pursuing this option would allow Council to address potential concerns about SB 79's impacts on TOD zones outside of downtown. This could include neighborhoods with predominantly smaller-scale development where more intensive SB 79 developments may be out of scale. **Pursuing a TOD alternative plan for more than one TOD zone would increase the level of effort to more closely align with the significant-effort option discussed below.**

***Estimated Time to Complete: One Moderate-Effort Option (12 to 15 months); two or more Moderate-Effort Options (24+ months).***

***Estimated Start Date:*** Staff could start this work immediately upon deferral of other current work items. Staff recommends completing the Historic Preservation Ordinance Update so that newly listed historic resources can be considered in this option.

**Significant-Effort Option**

Staff has identified one potential option that would require a significant effort to pursue. This option would involve preparing a TOD alternative plan for all TOD zones within Mountain View. Preparing a TOD alternative plan for all TOD zones in Mountain View would require extensive

technical and environmental analysis, including parcel-level analysis of existing densities and residential FAR on potentially thousands of parcels. Pursuing this option would require a level of effort similar to a General Plan Update, given the areal extent of the City involved and the detailed requirements for TOD alternative plans contained in SB 79.

***Estimated Time to Complete:*** 24+ months.

***Estimated Start Date:*** Staff could start this work immediately upon deferral of other current work items.

#### **Deferral of Work Plan Items Under Way to Pursue a TOD Alternative Plan**

The pursuit of any TOD alternative plan will have workload impacts on the Community Development Department (CDD) and potentially on other departments, such as Public Works and Housing. CDD has only two staff members (one Planning Manager and one Principal Planner) dedicated to advanced or long-range planning, including the development of policy and planning documents of the sort being considered for an SB 79 TOD alternative plan. Other staff primarily assigned to current planning responsibilities, which include staffing the public counter and processing building and development permits, are occasionally assigned additional responsibilities to assist with advanced planning activities given the existing workload as has recently been the case with Housing Element program implementation and other advanced planning activities, such as the Moffett Boulevard Precise Plan, Dark Skies Ordinance, and Historic Preservation Ordinance Update. CDD staff focused on advanced planning activities (the “advanced planning team”) also rely on consultant support for some planning activities.

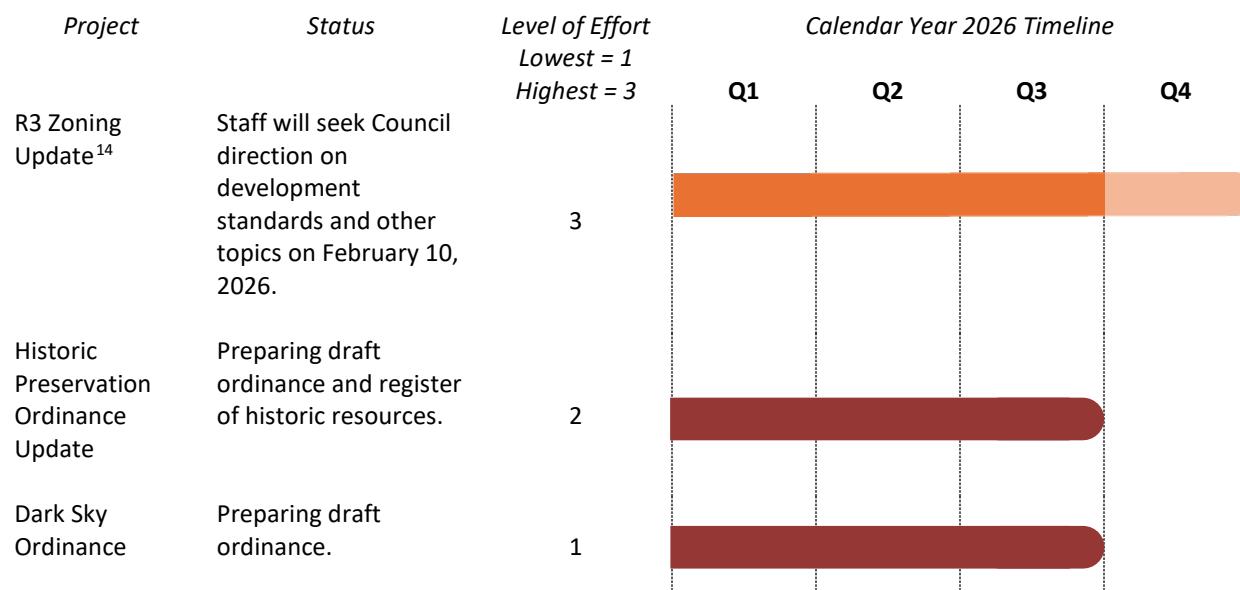
The advanced planning team currently has an assigned workload that exceeds its capacity to timely complete all assignments without consistently working outside of regularly scheduled work hours. Additionally, the significant ongoing workload in current planning limits the ability to assign additional advanced planning responsibilities, such as preparation of a TOD alternative plan, to the current planning team. The preparation of any TOD alternative plan will require dedicated work over at least half a year and potentially a year or more, meaning that assigning it as an additional duty to current planning staff, whose focus is on compliance with state project processing timelines, will not allow timely completion of the plan. Consultant support may be needed for some of the technical analysis but cannot be used for primary work on the plan due to the detailed knowledge of Mountain View that will be needed. Therefore, it will be necessary to determine which tasks assigned to the advanced planning team will be deferred to create capacity for them to focus on a TOD alternative plan.

#### **Council Work Plan Items**

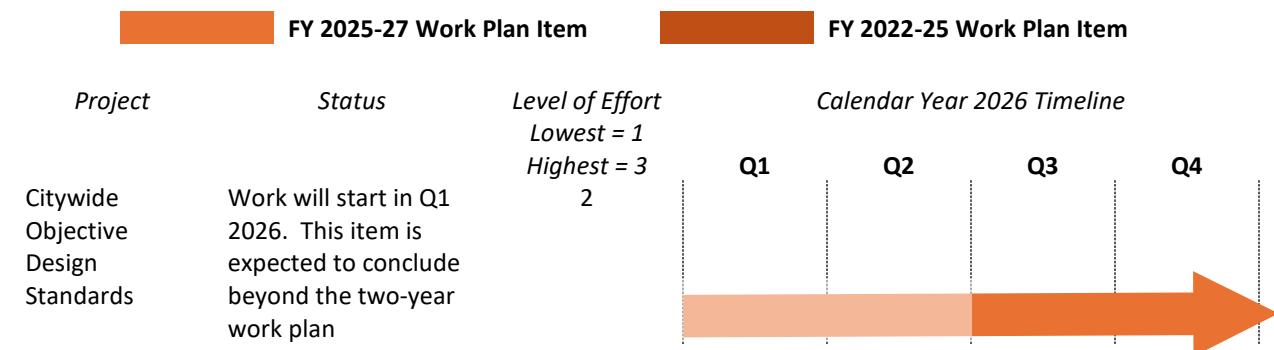
CDD is currently assigned five items in the Fiscal Year 2025-27 Council Work Plan, three of which are primarily assigned to the advanced planning team. An additional four items from the Fiscal Year 2023-25 Council Work Plans assigned to the advanced planning team are ongoing. These

items are summarized below in Figures 7 and 8, with more detailed information on the status of these items included in a [City Council agenda report from December 16, 2025](#).<sup>13</sup>

The advanced planning team also has important supporting roles in a number of other Council priority items led by other departments, including the Citywide Transportation Demand Management (TDM) Ordinance, Biodiversity and Urban Forest Plan, Parks and Recreation Strategic Plan, Active Transportation Plan, Citywide Transportation Demand Model, facilitating affordable housing development at the VTA Evelyn site (87 East Evelyn Avenue and 57-67 East Evelyn Avenue), Downtown Parking Strategy Implementation, and the Park Land Dedication In-Lieu Fee nexus study.

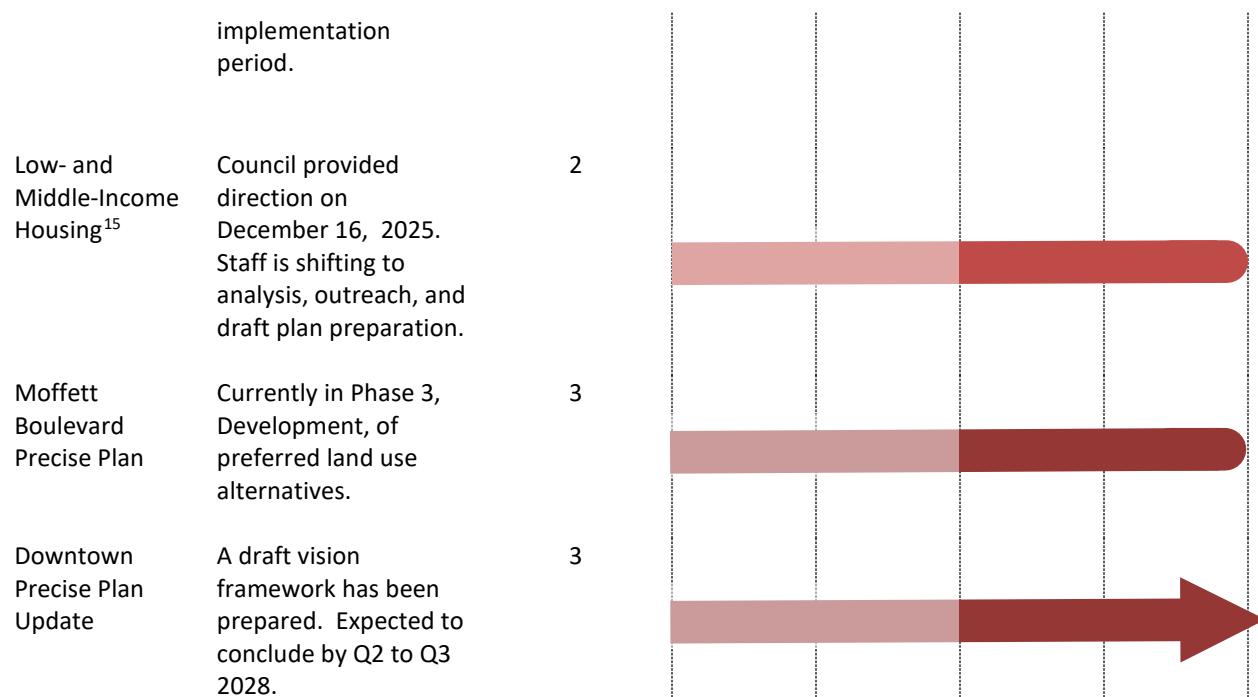


**Figure 7: Advanced Planning Team Work Plan Items in Higher-Intensity Phases**



<sup>13</sup> There are several Housing Element implementation programs that are also ongoing concurrently with these work items that cannot easily be deferred due to potential impacts on the City's Housing Element compliance. Therefore, they are not specifically identified in the deferral/discontinuation discussion.

<sup>14</sup> The R3 Zoning Update was also included in the Fiscal Year 2023-25 Work Plan and was specifically carried forward into the Fiscal Year 2025-27 Work Plan to prioritize its completion.



**Figure 8: Advanced Planning Team Work Plan Items in Lower-Intensity Phases**

#### Overall Level of Effort and Phase of Work

It will be necessary to defer one or more of the items in Figures 7 and 8 to enable work on a TOD alternative plan to proceed in 2026. **Two main factors are relevant to Council's identification of items to defer: the overall level of effort required for each work plan item and the phase of work that each work plan item is currently in.**

Objective comparison of levels of effort between planning items is difficult; however, for purposes of Council consideration of whether to prepare a TOD alternative plan, staff has established a rough comparison between work plan items by showing levels of effort between “1” (lowest level of effort) and “3” (highest level of effort) in Figures 7 and 8. Deferral of lower-effort items will provide less staff capacity to work on a TOD alternative plan than deferral of higher-effort items. Staff has similarly structured the TOD alternative plan options with various levels of effort ranging from Limited-Effort Options to Moderate-Effort Options to a Significant-Effort Option. More staff capacity, provided deferring work plan items, would be needed as the level of effort required for one or more TOD alternative plan options increases.

<sup>15</sup> The Housing Department is leading on this work plan item, but CDD has a significant supporting role with one of the tasks.

The other major factor related to creating staff capacity for preparing a TOD alternative plan concerns the phase of work each work plan item is in. For simplicity, staff has grouped work plan items by higher- and lower-intensity phases in Figures 7 and 8, respectively. Work on the R3 Zoning Update, Historic Preservation Ordinance Update, and the Dark Sky Ordinance is in the most-intensive phase until completion or, for the R3 Zoning Update, until the end of Q3 2026. Deferral of one or more of these work plan items would be necessary to begin work on a TOD alternative plan before Q3 2026. At the same time, those three work plan items currently have significant “momentum,” and deferral could result in longer overall timelines to completion and increase costs beyond those currently budgeted.

The phase of intensity for each work plan item indicates how much capacity deferring an item will create at a given point in time. For example, deferring the Dark Sky Ordinance will create more near-term capacity than deferring Citywide Objective Design Standards because the former currently requires more staff resources than the latter. But, without deferral of Citywide Objective Design Standards, this work plan item will require additional staff capacity beginning in Q3 2026, which could affect ongoing work on a TOD alternative plan. **The phase of work for deferred work plan items has a direct relationship to how soon staff can begin work on a TOD alternative plan and how efficiently they can carry out such work until completion.**

It may be possible to avoid deferral of most work plan items if Council directs work on a TOD alternative plan to proceed after completion of one or more of the identified items currently being worked on by the advanced planning team. **Based on the significant ongoing planning activities demonstrated in Figures 7 and 8, sufficient staff capacity to prepare a TOD alternative plan would be realized beginning in Q1 2027 after completion of the R3 Zoning Update, Low- and Middle-Income Housing, Dark Sky Ordinance, Historic Preservation Ordinance Update, and Moffett Boulevard Precise Plan work items and provided that Council does not add any other new planning assignments in the interceding period.**

Staff has identified different approaches for Council to consider later in this report. Whichever approach to preparing a TOD alternative plan Council selects, the standard provisions of SB 79 would apply in Mountain View during the period from July 1, 2026 until completion of the TOD alternative plan process.

#### Considerations for Work Plan Item Deferral

As demonstrated above, completion of work plan items that address multiple Council and community priorities must be deferred to prepare a TOD alternative plan in response to SB 79. **A key consideration for Council is whether certain disruption of multiple in-progress Council work plan items to enable planning for potential/speculative impacts from SB 79 is in the community's best interests.** A number of these items have already been in progress for several years and have already experienced delays for other reasons. Moreover, staff's experience with other state streamlining laws suggests that few have triggered widespread development of high-density projects. Laws streamlining accessory dwelling unit (ADU) approvals have been the most

widely used state streamlining law in Mountain View. There is also the issue of a TOD alternative plan “turning off” the limitations included in Government Code Section 65912.157.

While Council has discretion to modify its work plan priorities at any time, there are some work plan items that have dependencies or relationships to other ongoing items that would make deferral of these items more or less desirable in relation to TOD alternative plan preparation in staff’s assessment. Some examples include the following:

- Less Desirable for Deferral:
  - *R3 Zoning Update:* The R3 Zoning Update has included a multi-year effort and significant community engagement. Staff anticipates completing this item in Q2 2026. The R3 Zoning Update is also intended to satisfy Housing Element Programs 1.3.h and 1.5, and deferring the work item could adversely affect the City’s Housing Element implementation. Deferral could also adversely affect the ability to successfully develop housing projects in a significant share of current and proposed R3 zoning areas outside SB 79 TOD zones (see Figure 9 and Attachment 3). R3-zoned properties comprise a relatively small proportion of TOD zone area overall with the most intensive R3 subzones (R3-D1 and R3-D2) comprising even less area.

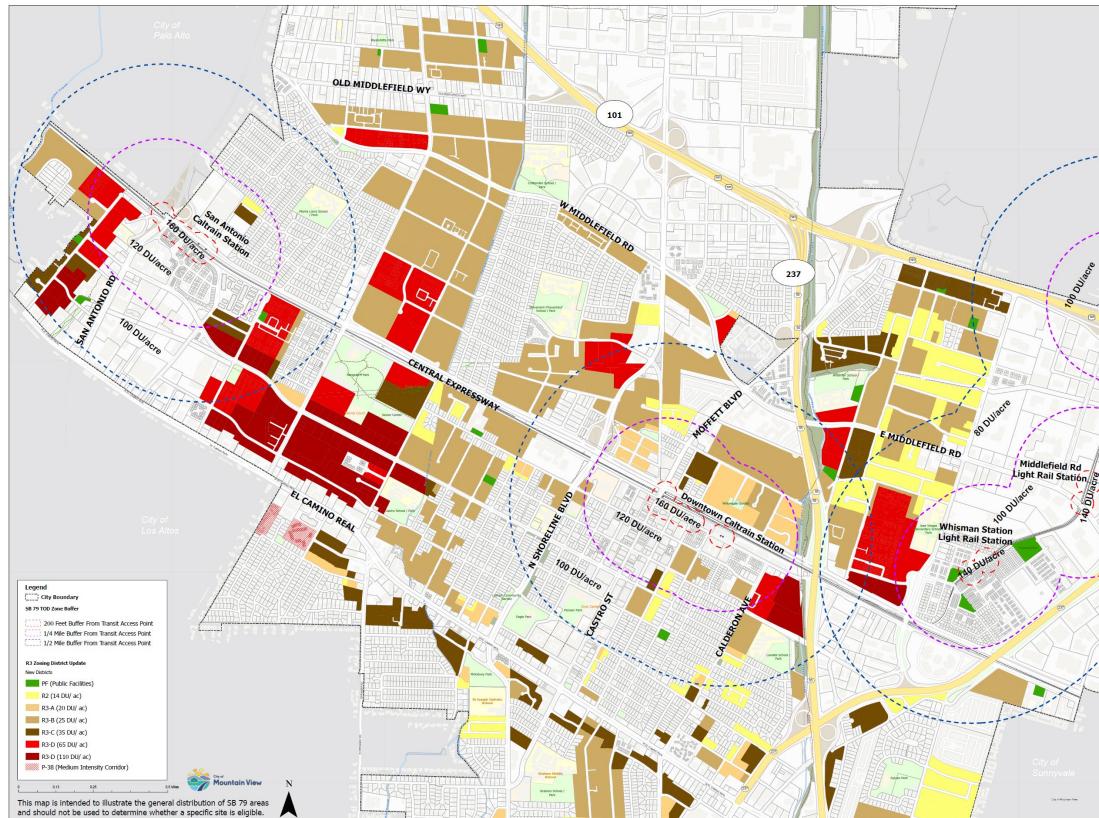


Figure 9: R3-Zoned Areas

The objective development standards adopted with the R3 Zoning Update may also serve as a critical building block for one of the TOD alternative plan options discussed above as well as a key reference point for the Citywide Objective Design Standards work plan item.

- *Historic Preservation Ordinance Update*: The Historic Preservation Ordinance Update has also included a multi-year effort, and staff anticipates completing this item by the end of Q2 2026. Completion of the update, which also includes an update to the Mountain View Register of Historic Resources (MV Register), is related to completion of Housing Element Program 1.1.f that will enable the City to fully implement emergency shelter zoning provisions (this work was unable to be completed previously due to the likely presence of historic resources in the El Camino Real Precise Plan area). Completion of this work item can also support protection of historic resources added to the MV Register after January 1, 2025, as part of a TOD alternative plan (e.g., protecting additional historic resources in the downtown area).
- More Desirable for Deferral:
  - *Moffett Boulevard Precise Plan and Downtown Precise Plan Update*: These two work items affect areas immediately north and south of the downtown Mountain View TOD zone. The changes in allowable density, residential FAR, and height in these areas makes completion of these Precise Plans on their current timelines and scopes of work very challenging. Staff sees a potential benefit to deferring work on these plans until the City's TOD alternative plan approach is known. At that time, work on these Precise Plans could resume.
  - *Dark Skies Ordinance*: This work item is currently utilizing significant staff resources and does not have any dependencies that would disrupt other work if deferred.

### Approaches to TOD Alternative Plan Preparation

Staff has identified three approaches to TOD alternative plan preparation that balance staff capacity considerations and address different community interests. **To ensure sufficient staff capacity for all of these approaches, staff has determined that deferral of work on the Dark Sky Ordinance, Citywide Objective Design Standards, Downtown Precise Plan Update, and Moffett Boulevard Precise Plan will be necessary.** Work would continue on the R3 Zoning Update and Historic Preservation Ordinance Update until the items are completed.

#### Approach A: Implement SB 79 Exemptions (Limited-Effort Option No. 1)

Approach A involves City Council adoption of an ordinance that would implement the exclusions described in Table 4 above. This would protect historic resources included in the City's local

register of historic resources as of January 1, 2025, as well as a number of parcels located in the San Antonio, Downtown, Moffett, and East Whisman areas (see Figure 5) through 2032.

Work on Approach A could start in Q1 2026, and staff estimates it would take approximately nine months to complete ordinance adoption. Resumption of work on deferred work plan items could occur beginning in Q1 2027 under Approach A due to the limited effort required and shorter overall duration estimated to complete this approach.

#### Approach B

Approach B involves pursuing the work described in Approach A with the addition of creating SB 79 Implementation Standards (Limited-Effort Option No. 2). This approach would combine the protections in Approach A with the adoption of local development standards to responsibly and effectively implement SB 79 in all TOD zones.

Work on Approach A would proceed as noted above while the R3 Zoning Update continues. Specific work on Limited-Effort Option No. 2 would proceed in Q1 2027 after completion of the R3 Zoning Update in Q4 2026 since the objective development standards adopted with the R3 Zoning Update would serve as the basis for refinement of standards needed to effectively carry out projects across the range of densities and lot sizes possible under SB 79.

Staff estimates needing approximately 12 months to complete Limited Effort Option No. 2. Resumption of work on some deferred work plan items may be possible beginning in mid-2027 with resumption of work on all deferred work plan items possible beginning by Q1 2028.

#### Approach C

Approach C involves pursuing the work described in Approach B with the addition of a TOD alternative plan focused on the downtown area (Moderate-Effort Option No. 1). This approach would combine the protections in Approach A, the SB 79 local development standards in Approach B, and a narrowly focused planning process to put in place SB 79 alternatives within Area H of the Downtown Precise Plan. The planning process would, at a minimum, evaluate available protections under an SB 79 TOD alternative plan for historic resources in Area H added to the local register upon completion of the Historic Preservation Ordinance Update in Q2 2026. It would also evaluate additional options to modify SB 79 density, height, and residential FAR requirements in Area H (including properties that are not historic resources) with consideration given to the existing character and scale of development in Area H. This is a more involved approach because staff would need to locate alternative locations to transfer SB 79 density and residential FAR that may be removed from Area H.

Work on Approach A and Approach B would proceed as noted above. Staff's immediate focus would be on completion of Approach A with additional staff resources committed to work on Moderate-Effort Option No. 1 available in Q1 2027 after completion of the R3 Zoning Update.

Staff estimates it would take approximately 18 months to complete Moderate-Effort Option No. 1 because of the concurrent work required on Limited-Effort Option No. 2. Resumption of work on deferred work plan items is estimated to resume no sooner than Q3 2028.

**Staff Recommendation: Approach B.** Staff recommends Approach B because it balances beneficial outcomes for the community from two TOD alternative options with minimizing the long-term deferral of other established priorities in the Council work plan. Pursuing Approach B would require immediate deferral of further work on the Dark Sky Ordinance, Citywide Objective Design Standards, Downtown Precise Plan Update, and Moffett Boulevard Precise Plan. This would enable staff to begin work on Limited-Effort Option No. 1 in Q1 2026. Work would continue on the R3 Zoning Update and Historic Preservation Ordinance Update until the items are completed. Under Approach B, it may be possible to resume some deferred work plan items as soon as Q3 2027 with resumption of all work plan items beginning by Q1 2028.

***Council Question No. 1: Does Council want to pursue a TOD alternative plan?***

***Council Question No. 2: If Council wants to pursue a TOD alternative plan, is Council interested in pursuing Approach B as recommended by staff (or a different approach), and should work begin immediately or at a later date?***

***Council Question No. 3: Does Council authorize the deferral of work on the Dark Sky Ordinance, Citywide Objective Design Standards, Downtown Precise Plan Update, and Moffett Boulevard Precise Plan, which is necessary to create staff capacity to prepare a TOD alternative plan?***

## Assembly Bill 130

### Bill Summary

On June 30, 2025, the Governor signed AB 130 into law. AB 130 took effect immediately and significantly overhauled state housing and environmental laws for infill housing development projects meeting certain criteria. The law offers streamlined CEQA review, mandates faster permitting and approvals, stronger state oversight provisions, provides more options to mitigate vehicle miles traveled (VMT) impacts, and sets a moratorium on new residential building code standards through 2031. AB 130 was coupled with SB 131, which primarily allows additional CEQA statutory exemptions for rezoning actions that implement state-approved housing elements and particular types of nonresidential projects, along with allowing streamlined CEQA review for housing development projects that would be eligible for a CEQA exemption but for the existence of one factor that excludes them from qualifying (sometimes referred to as a “near miss”).

AB 130 provides a new statutory CEQA exemption for qualifying infill residential projects. Statutory CEQA exemptions are absolute, meaning no further CEQA analysis is needed.

Qualifying residential projects can consist of single-family, multi-family, mixed-use, and transitional/supportive housing. Projects proposing an AB 130 CEQA exemption are subject to the local development review process, with new requirements for both developers and local jurisdictions. Developers are subject to new labor standards (prevailing wages and a skilled workforce) for 100% affordable housing projects and buildings over 85' tall. Cities and developers must also engage in a consultation process with Native American tribes. Specific air quality standards are required for project sites near freeways, and clean-up actions are required if studies find evidence of soil/water/soil vapor contamination on-site. AB 130 does not affect SDBL provisions, including waivers, incentives/concessions, and reduced parking.

In addition to a new statutory CEQA exemption, AB 130 also amends the Permit Streamlining Act (PSA), with mandated timelines for approval or denial of development projects at the conclusion of the objective standards consistency analysis or tribal consultation, whichever is later (AB 130 statutory CEQA exemption) or within a specified timeline of receiving a complete application (ministerial projects). A project is automatically deemed approved if a formal decision is not made within these time frames.<sup>16</sup>

As mentioned earlier, AB 130 is a far-ranging bill, and its many provisions are too extensive to cover in this report. Therefore, this report will focus on AB 130's provisions related to the new CEQA statutory exemption and permit processing timelines. A more extensive summary of AB 130 and SB 131 can be found in Attachment 4.

#### Amendments to the California Environmental Quality Act

##### *Qualifying Criteria for AB 130 Statutory Exemption from CEQA*

To qualify for the new statutory exemption created by AB 130, a housing development project must meet all of the site and project criteria set forth in Public Resources Code Section 21080.66, including, but not limited to, the following items in Table 6.

**Table 6: AB 130 Statutory Exemption Criteria**

| CRITERION           | DETAILED STANDARD  |
|---------------------|--|
| <b>Project Size</b> | <ul style="list-style-type: none"><li>• ≤ 20 acres (standard); or</li><li>• ≤ 4 acres (Builder's Remedy).</li></ul>                        |
| <b>Location</b>     | <ul style="list-style-type: none"><li>• Located within the boundaries of an incorporated municipality or U.S. Census urban area.</li></ul> |

<sup>16</sup> AB 130 revised Government Code Section 65956 to simplify the process for a project to be deemed approved any time the City fails to act within the deadlines specified in the PSA, regardless of whether the project is exempt from CEQA under AB 130. Specifically, the Legislature has removed the notice and hearing requirements previously imposed before a project could be deemed approved, making the process automatic.

| CRITERION                       | DETAILED STANDARD   |
|---------------------------------|---|
| <b>Urban Infill Context</b>     | <ul style="list-style-type: none"> <li>Previously developed with an urban use;</li> <li>At least 75% of the perimeter of the site adjoins parcels that are developed with urban uses;</li> <li>At least 75% of the area within a one-quarter mile radius of the site is developed with urban uses; and</li> <li>For sites with four sides, at least three out of four sides are developed with urban uses and at least two-thirds of the perimeter of the site adjoins parcels that are developed with urban uses.</li> </ul> |
| <b>Plan/Zoning Consistency</b>  | <ul style="list-style-type: none"> <li>Must be consistent with local General Plan or Zoning/Precise Plans as well as any applicable local coastal program;</li> <li>If the Zoning and General Plan are not consistent with one another, a project shall be deemed consistent with both if the project is consistent with one; and</li> <li>Use of density bonus or Builder's Remedy does not necessarily disqualify a project from being "consistent" for purposes of the AB 130 CEQA exemption.</li> </ul>                   |
| <b>Minimum Density</b>          | <ul style="list-style-type: none"> <li>≥ 50% of default Housing Element density (15+ units/acre in Mountain View).</li> </ul>   |
| <b>Use Restrictions</b>         | <ul style="list-style-type: none"> <li>No hotel, motel, bed and breakfast inn, or other transient lodging except a residential hotel per California Health and Safety Code Section 50519 and short-term lodging; and</li> <li>No demolition of historic structures listed on a national, state, or local historic register as of the date of the project's preliminary application.</li> </ul>  |
| <b>Environmental Conditions</b> | <ul style="list-style-type: none"> <li>Not a hazardous waste site listed on the hazardous sites database.</li> </ul>  |
| <b>Other Criteria</b>           | <ul style="list-style-type: none"> <li>Not located on areas of prime farmland or farmland of statewide importance;</li> <li>Not in a very high fire hazard severity zone;</li> <li>Not on a wetland;</li> <li>Not on a special flood hazard area subject to inundation by the 1% annual chance flood (100-year flood); and</li> <li>Not on a delineated earthquake fault zone.</li> </ul>   |

#### *Middlefield-Ellis-Whisman Areas*

One important environmental screening criterion under AB 130 is that the project must not be located on a hazardous waste site designated by the Department of Toxic Substances Control (DTSC). Projects using the statutory exemption must be conditioned to complete a Phase 1

environmental site assessment (ESA) and address any recognized environmental conditions that may be identified.

This screening criterion is limited to sites on the DTSC list, which does not include the Middlefield-Ellis-Whisman (MEW) superfund sites. The City of Mountain View includes three MEW superfund sites: the Fairchild Semiconductor Corp. superfund site, the Raytheon Company superfund site, and the Intel Corp. superfund site, as well as several other contaminated facilities and portions of the Naval Air Station Moffett Field superfund site (see Figure 10). These MEW sites are part of a larger superfund area focused on addressing significant groundwater contamination resulting from historical semiconductor and electronics manufacturing activities.

The exclusion of site eligibility under AB 130 based on environmental contamination is narrow and applies only when a property is identified on the DTSC list. For projects situated on sites with known or suspected contamination (such as MEW sites) that are not listed on the DTSC hazardous sites database and that are seeking the AB 130 statutory exemption, the applicant must complete a Phase 1 ESA. A Phase 1 ESA includes research on the history of a site to determine whether potential contamination is likely to be present. If a Phase 1 ESA identifies a recognized environmental condition, such as hazardous substance contamination, the developer must complete a Preliminary Endangerment Assessment and implement any required mitigation or clean-up measures in accordance with state and federal law before the site can be occupied. Under the traditional CEQA review process, a Phase 1 ESA is typically prepared during the CEQA review as part of the planning and entitlement phase, allowing potential impacts from the contamination to be identified early and addressed through mitigation measures or conditions of approval before project approval. However, under AB 130, remediation can occur later in the development process, typically during the building permit review phase.



**Figure 10: Superfund Site Locations within Mountain View**

#### Tribal Consultation Requirements and Review Timelines

Under AB 130 (as amended by SB 158), projects qualifying for the statutory CEQA exemption are required to engage in tribal consultation with California Native American tribes that are traditionally and culturally affiliated with the project site. The consultation process must begin within 14 days after the project application is deemed complete (which means a complete preliminary application has been submitted), or, in the case of projects that had already been submitted to the City when the law took effect, within 14 days of the City receiving notice that the project is eligible for the exemption under Public Resources Code Section 21080.66. Tribes have 60 days from notification to request consultation. If a consultation is requested, it must commence within 14 days and be concluded within 45 days, with the possibility of a single 15-day

extension if requested by the tribe. Any project approval is required to include conditions that ensure tribal monitoring during ground-disturbing activities and measures to avoid or protect tribal cultural resources.

#### Permit Streamlining Act Amendments

AB 130 and SB 158 also amended the PSA to accelerate the review of projects that rely on the CEQA exemption. Under these amendments, public agencies are required to approve or disapprove qualifying projects within 30 days of the conclusion of the tribal consultation process or deadline for sending a project consistency letter (whichever is later). The project consistency letter deadline is usually 30 or 60 days after application completeness, depending on the number of residential units in the project, and must identify any objective development standard with which the project is inconsistent. The Legislature's intent with these amendments was to ensure that projects move efficiently through the decision-making process while maintaining compliance with tribal consultation and objective development standards requirements. The PSA amendments also apply to any ministerial housing project that requires a planning permit, making such projects subject to the 30-day PSA deadline for deeming an application complete or for requesting additional information from the applicant. Once deemed complete, ministerial projects must be approved or denied within 60 days, further streamlining the review and approval process.

#### AB 130 and Peer Jurisdictions

Staff polled other jurisdictions within the County about whether they have made or are planning changes to their housing development project review processes in response to AB 130. Due to existing priorities and the recent enactment of the law, most cities have not amended their housing development project review processes. Some have developed their own AB 130 checklist or form for applicants requesting the CEQA exemption. Table 7 outlines staff's research of other jurisdictions within the County.

**Table 7: How Other Jurisdictions are Addressing AB 130 Process Changes**

| <b>Jurisdiction</b> | <b>How AB 130 Process Changes are Being Addressed</b>  |
|---------------------|--|
| Campbell            | No formal process changes. Staff currently tracks timelines in accordance with the law.  |
| Monte Sereno        | No plans to make formal municipal code updates.  |
| Saratoga            | Developed an AB 130 checklist for project applicants to submit with their development applications.  |
| Sunnyvale           | New timelines will be included in Sunnyvale's new Housing Development Permit Ordinance, which includes provisions for streamlining review of housing development projects. Adoption of the ordinance is anticipated later in 2026. |

### Current Mountain View Review Process and Levels of Review

Article XVI (Zoning Ordinance Administration) of Chapter 36 (Zoning) of the City Code outlines the current review process for housing development projects. All new construction requires a Development Review Permit, in addition to other permit types, depending on the project scope, prior to issuance of a building permit. Planned Community Permits are also required for housing development projects on sites within Precise Plan districts. The development review process is administered at four levels of evaluation: Administrative (i.e., staff level), Zoning Administrator/Subdivision Committee public hearings, EPC public hearings, and City Council public hearings. Applicants may obtain a building permit to construct a project only after obtaining approval of these other permits.

#### *Administrative/Ministerial*

Administrative applications are approved ministerially by the Community Development Director without discretion, public notice, or hearing. State-mandated ministerial housing projects (e.g., Dual Urban Opportunity Housing, SB 35, and SB 684 projects) are the most substantial housing development projects acted upon at the administrative/ministerial level. Ministerial actions are not subject to appeals.

#### *Zoning Administrator and Subdivision Committee*

At duly noticed public hearings, the Zoning Administrator has the authority to take final action on new construction of housing development projects on sites that do not have an adopted Precise Plan (such as a standard R3-zoned site). The Zoning Administrator is also responsible for making development review recommendations to the City Council, including for projects with Development Agreements or when the applicable Precise Plan specifies review by the Zoning Administrator. Projects that involve subdivision of real property (such as condominiums and rowhomes) are reviewed by the Subdivision Committee, which consists of the City Manager or City Attorney, Zoning Administrator, and the City Engineer, or their respective designees. The Subdivision Committee makes final decisions on tentative parcel maps (four or fewer parcels) and makes recommendations on tentative maps (five or more parcels) to the City Council, which has final approval authority. Decisions of the Zoning Administrator and Subdivision Committee may be appealed to the City Council.

#### *Environmental Planning Commission*

The EPC, consisting of seven commissioners, is an advisory body that serves as a review and recommendation body to the City Council at regularly scheduled and duly noticed public hearings. Their review is often focused on policy-related actions, such as Precise Plans and General Plan Amendments. The EPC also reviews and provides a recommendation to the City Council on Planned Community Permits (in lieu of the Zoning Administrator) for new construction

of housing development projects when required by an applicable Precise Plan. Per City Code, the EPC does not have approval authority on any land use actions.

*City Council*

The City Council makes final development review determinations on housing development projects and any associated legislative actions based on recommendations by the Zoning Administrator or EPC. The City Council is the final appeal body of Zoning Administrator determinations.

Challenges Presented by the Current Process

The City's current housing development project review process was established prior to the passage of many significant state housing laws starting in 2017 in response to the statewide housing crisis. Some of these laws specify streamlined or ministerial review processes with discretion narrowly limited to whether a project is consistent with "objective, quantifiable, written development standards, conditions, and policies" (Government Code Section 65589.5 (f)). When a project complies with applicable objective standards and criteria, the Housing Accountability Act (HAA) (Government Code Section 65589.5(j)) prohibits denial of housing development projects or conditioning them in a manner that would render them infeasible unless written findings are made. In these cases, a local jurisdiction must find that a project would have a "specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density." A local jurisdiction would also need to find there is a "significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete." **These provisions effectively leave local jurisdictions with extremely limited discretion when acting on housing development projects.**

The recent passage of AB 130 further changes the legal landscape for review by constraining the time within which a local jurisdiction must act on a housing development project. The strict timelines in AB 130 and the PSA, combined with the potential that housing development projects will be deemed approved if the City fails to act, pose challenges within the City's current housing development project review process. **Specifically, the requirement for many projects to undergo more than one level of review (Zoning Administrator and City Council, EPC and Council, or even Zoning Administrator, EPC, and Council in some cases) means it is not possible to conduct the public hearings required by the City Code and precise plans within AB 130's 30-day period for final action.**

**The new reality is that many housing development projects in Mountain View will be eligible for the AB 130 statutory exemption from environmental review under CEQA and will be subject to the 30-day period for final action.** This forecloses opportunities for multiple public hearings,

or at least meaningful public hearings, since intermediate levels of review may need to occur before projects have been fully analyzed. Several housing development projects in Mountain View have already invoked the new statutory exemption since AB 130 was signed into law, leading to their scheduling for City Council hearings sooner than would otherwise have been required prior to AB 130. In these cases, the Zoning Administrator deferred its recommendation authority to the City Council. Staff also anticipates having to take several projects currently in processing to the EPC before project consistency analyses are completed to reach a final decision by the City Council within the AB 130 timelines. Seeking recommendations on projects for which consistency analyses have not been completed reduces the effectiveness of any recommendation and also limits the public's ability to meaningfully engage in the process.

**For these reasons, staff recommends reconsidering the required review process for housing development projects that are subject to AB 130.**

## **ANALYSIS**

### **Process Alternatives for Council Consideration**

The time constraints imposed by AB 130, combined with the diminished discretion available to local jurisdictions, present an opportunity for the City to rethink the required review process for housing development projects. This can include identification of streamlining opportunities to simplify and expedite housing development project review. Staff has developed the following options for Council's consideration, ranging from requiring only one hearing to expanding the projects eligible for ministerial approval.

#### **Levels of Project Review**

##### *Option No. 1: Expanded Ministerial Approvals*

State law generally requires smaller-scale housing development projects, such as Dual Urban Opportunity Housing (SB 9, passed in 2021) and small lot subdivisions of up to 10 units (SB 684, passed in 2023 and updated by SB 1123, passed in 2024), to be reviewed ministerially. Larger projects can also be reviewed ministerially under SB 35, but only a small number of projects have proposed this option due to its extensive eligibility criteria, including the requirement to pay prevailing wage. One-hundred percent (100%) affordable housing projects have most frequently utilized SB 35, including ministerial approvals of projects at 1100 La Avenida (100 units), Lot 12 at Bryant Street and Mercy Street (120 units), and 57-67 East Evelyn Avenue (143 units), within recent years. Staff anticipates approving another project with 268 units by the end of January 2026.

Since state law already requires the City to process many housing projects ministerially, including those with more than 100 units, Council may consider expanding the types of housing development projects that can be approved ministerially. There are various options for how

Council may define projects that could be approved ministerially. **At a minimum, the constraints of the City's existing housing development project review process, in light of the required 30-day period for final action under AB 130, necessitate Council consideration of whether projects eligible for the AB 130 statutory exemption should be eligible for ministerial approval.**

The eligibility criteria for housing development projects subject to ministerial approval should be defined objectively. Nearly all of the criteria for eligibility under AB 130 are objective and could serve as a basis for ministerial approval. It is important to recognize that AB 130 does not limit the number of units that an eligible project can include. Therefore, projects could potentially include hundreds, or even thousands, of units. Given the wide range of potential projects under AB 130, Council could consider establishing an objective unit threshold as part of the ministerial approval process, with projects exceeding that threshold remaining subject to discretionary review. Yet, recognizing the limitations state law places on local discretion during review of housing development projects, staff has not identified major benefits to ongoing discretionary review of such projects.

The main distinction staff has identified is that ministerial processes typically do not include public notification. A ministerial approval process created by the City could include a courtesy public notification component and a written public comment period. These components would ensure some ongoing public awareness of development proposals under consideration near them and afford an opportunity to provide input before final action on a project. One potential drawback of a public notification and/or comment period is that it could provide a false impression that those opposed to a project would have recourse to alter the scope, design, or outcome of the project, which is unlikely given the stringent limitations state law imposes on local jurisdiction discretion in the review of housing development projects.

*Option No. 2: Expanded Zoning Administrator/Subdivision Committee Approval Authority*

The Zoning Administrator is an office established in the City Code to interpret zoning provisions and take action on development permit applications. Currently, one of the Assistant Community Development Directors is appointed as the Zoning Administrator, although other staff occasionally serve in the role as needed. The City Code and some Precise Plans authorize the Zoning Administrator to approve permits for major new developments. There are typically only two circumstances when the Zoning Administrator cannot take final approval action on permits for a new development: a different review process (usually EPC recommendation with Council approval) is specified in a Precise Plan; or a project includes a subdivision of five or more lots, which requires a Subdivision Committee recommendation with Council approval.

Administrative procedures specified in the City Code and Precise Plans are the main limitations to an expanded Zoning Administrator role in final approval of housing development projects. Otherwise, the Zoning Administrator has the technical and procedural capacity to review and approve large-scale housing development projects. Zoning Administrator meetings are public hearings that include public notice and public comment. However, as noted previously,

discretion is very limited under state law, and the public hearing process could provide a false impression that those opposed to the project would have recourse to alter the scope, design, or outcome of the project.

**A key advantage to expanding Zoning Administrator approval authority for an expanded range of housing development projects is the flexibility to schedule public hearings as needed throughout the year.** The EPC and Council have regular meeting schedules that generally occur only twice monthly. These meetings may not align with AB 130 approval timelines and complicate the City's ability to timely act on housing development projects. The Subdivision Committee should also be granted an expanded role to approve tentative subdivision maps and tentative parcel maps, subject to the limitations of the Subdivision Map Act, concurrent with any expansion of Zoning Administrator approval authority. Approval of final subdivision maps, as well as acceptance of any offers to dedicate real property or abandonment of any real property interests held by the City (such as easements), would continue to require City Council approval.

Decisions of the Zoning Administrator/Subdivision Committee are currently appealable to the City Council. The PSA deadlines do not apply to appeal actions; so, provided that the City takes action to approve or deny a project within the PSA deadline, an appeal could be heard after the 30-day action timeline under AB 130 without the project being deemed approved.

*Option No. 3: Expanded EPC Role*

The EPC is a City advisory body established in Charter Code Section 906 with the power to:

- Recommend to Council, after a public hearing thereon, the adoption, amendment, or repeal of a master plan or any part thereof for the physical development of the City.
- Exercise such functions regarding the environmental quality of the community as may, from time to time, be prescribed by ordinance or resolution. A special membership for the planning commission when exercising functions pursuant to this subsection may also be established by ordinance or resolution.
- Exercise such functions with respect to land subdivisions, planning, and zoning as may be prescribed by ordinance or resolution.

The EPC has historically been given responsibilities focused on the first and second bullets. Less commonly, the EPC performs responsibilities identified in the third bullet. Its functions with respect to land subdivisions, planning, and zoning primarily stem from precise plans that establish the EPC as the recommending body to City Council for certain types of developments. As such, the EPC serves only in an advisory role and is not empowered to make final decisions on entitlement permits.

**This option would fundamentally change EPC's function. It would also not resolve challenges with the existing project review process regarding meeting schedules that may not align with AB 130 approval timelines. The issue of public perceptions of discretion to modify or deny projects that is not available under state law would also remain, similar to those in Option No. 2.**

*Option No. 4: City Council as Initial and Final Decision-Maker*

The last option identified by staff involves making the City Council the final decision-making body without receiving recommendations from the Zoning Administrator, Subdivision Committee, or EPC. This option would not fundamentally change the City Council's function. However, it would likely require the City Council to conduct more detailed, frequent, and long public hearings as Council would not have the benefit of a Zoning Administrator or EPC recommendation to inform their project evaluation. **This would adversely affect agenda management and staff workloads, and the efficient conduct of the full range of City business that the City Council must undertake. Another drawback of this option is that it would still include the other limitations in Option No. 3, including meeting dates that may not align with AB 130 approval timelines and public perceptions of discretion that is actually not available to the City Council.**

Key Considerations for Selecting a Revised Project Review Process

The paramount consideration for the City Council is the establishment of a one-step review and approval process. The City's existing two- or three-step review and approval process for housing development projects eligible for AB 130 is infeasible without significant risk that projects will be deemed approved for failure to act within the AB 130 approval timelines. It is also problematic to continue requiring City Council approval for these projects given the unpredictability of scheduling due to project application completeness and tribal consultation. **Effective agenda management is significantly complicated when one or more housing development projects may need to be scheduled within 30 days when taking into consideration the full range of City business that Council must undertake.**

Council should also consider whether holding public hearings on housing development projects, where the City's discretion is severely limited, continues to serve the public interest. It may be the case that a ministerial approval process that includes a public courtesy notification better balances the need for efficient housing development project review under AB 130 with realistic expectations of the City's ability to act in response to public comments.

**Staff Recommendation: Option No. 1.** Staff recommends Option No. 1 as it balances community awareness about housing development project activity near them with the reality that the City possesses extremely limited discretion when reviewing housing development projects. This option also recognizes the City's obligations under state law to comply with accelerated project approval timelines and ensures the City can meet its timing obligations in all cases. Reliance on any public hearing process, especially an EPC or Council hearing, could jeopardize the City's ability

to act on qualifying projects within the timelines required by AB 130. Staff recommends setting the threshold for ministerial approval to include all housing development projects that qualify for the AB 130 statutory exemption from CEQA.

***Council Question No. 4: In light of the stringent timelines for project processing and significant limitations on City discretion during review of housing development projects, does Council support Option No. 1 to create a ministerial approval process for projects subject to the AB 130 statutory exemption from CEQA?***

## **CONCLUSION**

The passage of SB 79 and AB 130 have changed the legal framework for development projects in Mountain View. The City Council may want to prepare a TOD alternative plan to modify the base provisions of SB 79 to better align with conditions and community interests in Mountain View. Any TOD alternative plan process will require deferring one or more ongoing Council work plan projects to provide sufficient staff capacity to carry out the work. This will delay completion of items already identified as priorities in the current and previous Council work plans.

The stringent timing provisions in AB 130 require a different process for reviewing housing development projects. Establishing a one-step review process and determining whether public hearings are necessary and appropriate for housing development projects subject to AB 130 presents an opportunity to streamline review.

## **FISCAL IMPACT**

The fiscal impact will vary depending on whether Council directs the preparation of a TOD alternative plan and, if so, the level of effort associated with it. Staff anticipates needing some level of consultant support to prepare a TOD alternative plan. A limited-effort option could require approximately \$50,000 to \$100,000 in consultant support, while a moderate- or significant-effort option could require several hundred thousand dollars in consultant support. Staff would identify any additional budget appropriation necessary after further evaluation of Council direction on the preparation of a TOD alternative plan.

Deferral of one or more ongoing Council work plan items could result in cost increases to those projects, which may require additional budget appropriations once those efforts resume.

Staff anticipates that existing appropriated funds in the Fiscal Year 2025-26 budget will be sufficient to complete any necessary amendments to the City Code and any affected Precise Plans to implement a revised housing development approval process required under AB 130. No additional appropriation is requested at this time.

### **LEVINE ACT**

California Government Code Section 84308 (also known as the Levine Act) prohibits city officials from participating in any proceeding involving a “license, permit, or other entitlement for use” if the official has received a campaign contribution exceeding \$500 from a party, participant, or agent of a party or participant within the last 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: [www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html](http://www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html).

Please see below for information about whether the recommended action for this agenda item is subject to or exempt from the Levine Act.

### **EXEMPT FROM THE LEVINE ACT**

- General policy and legislative actions

### **ALTERNATIVES**

1. Direct staff to explore other options for preparation of a TOD alternative plan under SB 79 or project review and approval processes in response to the project approval timelines in AB 130.
2. Provide other direction.

**PUBLIC NOTICING**

The City Council meeting is advertised on Channel 26, and the agenda and this report appear on the City's website.

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Attachments:

1. SB 79 Eligibility Criteria
2. Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC) SB 79 Summary
3. R3 Zoned Areas
4. ABAG/MTC AB 130/SB 131 Summary
5. Public Comment