

CLERK OF THE BOARD OF SUPERVISORS
BOARD OF SUPERVISORS MEETING
WEDNESDAY, OCTOBER 9, 2024
Legislative Services Section: (619) 531-5434

REVISED BACKUP:

5. **OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND
ATTAINABLE HOUSING AND NOTICE OF EXEMPTION FROM CEQA
(DISTRICTS: ALL)**

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COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
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Fourth District

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Fifth District

DATE: October 09, 2024

05

TO: Board of Supervisors

SUBJECT

OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND ATTAINABLE HOUSING AND NOTICE OF EXEMPTION FROM CEQA (DISTRICTS: ALL)

OVERVIEW

The County of San Diego (County) Board of Supervisors (Board) is actively addressing housing affordability through various efforts to increase housing opportunities across all income levels. The Opportunities for Streamlining Affordable and Attainable Housing (Streamlining Opportunities) project builds on previous efforts to address affordability by exploring the feasibility of several innovative programs designed to expand affordable and attainable housing opportunities without adding regulation or development costs since they are all voluntary and incentive-based. Affordable housing is defined as housing that costs no more than 30% of a household's income. Attainable housing refers to housing that is accessible to those who may not qualify for traditional deed-restricted housing – homes legally bound by covenants to remain affordable for a period of time – but who still face challenges with the high costs of market-rate housing.

The Streamlining Opportunities project is a response to Board direction provided on July 14, 2021 (1) and March 13, 2024 (10) to explore opportunities for new housing programs. At this hearing, staff was directed to explore the feasibility of housing programs that would create more home ownership opportunities, facilitate the production of housing for older adults, and remove barriers to affordable housing development. The Streamlining Opportunities project includes four new programs that are voluntary and incentive-based, aligning with the County's goals of promoting equitable access to housing, facilitating the production of senior and low-income housing, and expanding homeownership opportunities. These programs are aligned with and will be integrated into the County's 6th Cycle Housing Element Implementation Plan to ensure efficient implementation timelines, resource allocation, and funding. The recommendations that staff are presenting today will be accomplished using existing funding and will result in no net change in General Fund cost. Staff conducted best practice research and engaged with community members and stakeholders to identify the following new programs. These will be developed by the end of the 6th Cycle Housing Element cycle (2029), with some being completed in the next 18-36 months and others completed in FY 26-27, if the Board directs staff to prioritize these efforts in the PDS housing workplan:

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1. *Small Lot Subdivision Program*: Encourages the design and construction of smaller single-family homes.
2. *Senior Housing and Assisted Living Facility Program*: Creates incentives to encourage the construction of more Senior Housing and Assisted Living Housing Facilities. It also incorporates accessible design principles to allow anyone to visit or live in homes comfortably, regardless of physical abilities.
3. *Expanded By-Right Program*: Expands streamlined ministerial approval to include housing developments that provide at least 20% of their units as affordable housing for low-income (80% of the Area Median Income and below) families and individuals.
4. *Accessory Dwelling Units (ADUs) Ownership Opportunities Program*: Allows the sale of ADUs separate from the primary home on the property.

Today's request is for the Board to provide direction on recommendations brought forward for each program to proceed with the development of new Streamlining Opportunities programs. These programs will be integrated into the broader package of efforts under the County's 6th Cycle Housing Element Implementation Plan.

RECOMMENDATION(S)

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services recommends that the Board of Supervisors:

1. Find in accordance with Section 15061(b)(3) that today's actions are exempt from CEQA because they do not meet the definition of a project and pursuant to the commonsense exemption because it can be seen with certainty that there is no possibility today's actions may have a significant effect on the environment.
2. Receive the materials for the Opportunities for Streamlining Affordable and Attainable Housing and direct staff to further pursue the recommendations provided to develop the Small Lot Subdivision Program, Senior Housing and Assisted Living Facility Program, Expanded By-Right Program, and the Accessory Dwelling Units (ADUs) Ownership Opportunities Program.

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) recognizes the systemic impacts that inequitable policies create for residents of the San Diego region. The Opportunities for Streamlining Affordable and Attainable Housing Project potential programs seek to equitably address the unincorporated area's housing needs by increasing the production of housing units for low-income families, first time homebuyers, and older adults. By developing more housing opportunities across all income levels, these programs will help reduce housing inequity. Updates to the density bonus program as part of the Senior Housing and Assisted Living Facilities Program would incentivize the development of housing projects that are accessible to people living with disabilities, including older adults. This will foster inclusivity and reduce systemic barriers by ensuring everyone can access safe,

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accommodating living environments regardless of ability or mobility. The Accessory Dwelling Units (ADUs) Ownership Opportunities Program and the Small Lot Subdivision Program aim to create more attainable homeownership opportunities. This will enhance equity by enabling individuals from diverse socioeconomic backgrounds to build wealth, support financial stability, and invest in their communities, thereby reducing disparities in homeownership rates and fostering greater economic inclusion.

SUSTAINABILITY IMPACT STATEMENT

The Opportunities for Streamlining Affordable and Attainable Housing (Streamlining Opportunities) will implement the County's Housing Element and facilitate compliance with State housing law. The Streamlining Opportunities effort evaluates actions to support affordable housing development and expand housing opportunities for communities across the unincorporated area of San Diego County by facilitating the development of affordable housing for low and moderate-income (up to 120% of the Area Median Income, or AMI) individuals, families, and people at all life stages. Through engaging with unincorporated communities during this process, the Streamlining Opportunities effort advances Sustainability Goals #1 and #2 to provide just and equitable access to County policy decision-making in support of sustainable communities. In addition, the Streamlining Opportunities effort has been developed to support the sustainable development of housing within Vehicle Miles Traveled (VMT) Efficient and Infill areas. To support these efforts an Environmental Analysis can help streamline housing projects by providing a one-time analysis of the environmental impacts within these areas and corresponding mitigation measures. As a result, discretionary projects consistent with the Environmental Analysis would require fewer additional analyses, saving applicants time and costs.

FISCAL IMPACT

There is no fiscal impact associated with today's recommendation. There will be no net change in General Fund cost and no additional staff years.

Though there is no impact on General Fund or net FTEs, there are potential opportunity costs depending on Board direction. If directed to move forward with the Senior and Assisted Living Housing and Accessory Dwelling Units (ADUs) Ownership Opportunities programs, existing staff and resources will be directed toward these projects as opposed to future Board-directed housing projects which could require additional allocation of existing staff and resources. Depending on the opportunities selected by the Board, this could result in up to 1.0 FTE and up to \$850,000 being directed toward the programmatic opportunities outlined in this Board letter. The Small Lot Subdivision Program and the Expanded By-Right Program opportunities can be incorporated into the scope of the upcoming Development Feasibility Analysis Programmatic Environmental Impact Report or other appropriate environmental analysis (Environmental Analysis) and would not result in FTEs or resources being redirected. Further details on the potential costs are detailed under each program section of the board letter.

Again, there will be no additional cost associated with these actions. Staff will also monitor funding opportunities and mechanisms to leverage other financing sources.

BUSINESS IMPACT STATEMENT

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N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

California is facing a housing affordability crisis due to the escalating cost of housing. According to the U.S. Census Bureau (2022), most renter households are cost-burdened, meaning they spend more than 30% of their monthly income on housing costs. Affordable housing is defined by the U.S. Department of Housing and Urban Development (HUD) as housing for which total costs, including rent, mortgage, and utilities, consume no more than 30% of household income. State law requires that the County of San Diego (County) address the housing needs of its residents across all income levels by adopting a Housing Element as part of its General Plan.

The County's General Plan Housing Element outlines designated land, policies, and initiatives to support the development of housing that meets the diverse needs of residents in the unincorporated area of San Diego County (unincorporated area) across various income levels and life stages. On July 14, 2021 (1), the Board of Supervisors (Board) adopted the 6th Cycle Housing Element (Housing Element), encompassing 60 implementation actions. These actions foster housing development, including efforts to boost overall housing production, promote affordable housing development, and facilitate the construction of Accessory Dwelling Units (ADUs). During the Housing Element adoption hearing, the Board directed staff to explore the feasibility of developing the following programs:

- *Small Lot Subdivision Program* to provide additional homeownership opportunities by encouraging the construction of smaller single-family homes that are attainable through design.
- *Senior Housing and Assisted Living Facilities Program* that would facilitate and remove barriers to Senior Housing and Assisted Living Facilities.
- *Expanded By-Right Program* expands streamlined ministerial approval to include housing developments that provide at least 20% of its units as affordable housing for lower-income (80% of the AMI and below) families and individuals.
- *Accessory Dwelling Units (ADUs) Ownership Opportunities Program* to further promote housing opportunities, on March 13, 2024, the Board directed staff to evaluate the feasibility of implementing a new State law adopted in 2023, Assembly Bill (AB) 1033, which allows jurisdictions to adopt an ordinance permitting the sale of ADUs separately from the primary home.

Attachment A provides additional details on each of these programs, collectively referred to as Opportunities for Streamlining Affordable and Attainable Housing Project (Streamlining Opportunities). Staff has conducted best practice research, summarized in Attachment B, and outreach, summarized in Attachment C, for each program.

Small Lot Subdivision Program (Housing Element Program 3.1.1.N.)

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A subdivision is a land development process in which a larger parcel of land is divided into multiple lots. Small lot subdivisions promote different building types, including duplexes, triplexes, townhomes or fully detached homes on smaller lots than typical subdivisions. Due to their smaller size, these homes are typically more affordable than larger-lot suburban-style homes and can help meet the housing needs of moderate-income families earning between 80% and 120% of the Area Median Income (AMI). These units can be attached or detached, share common driveways, and have reduced setbacks or off-street parking requirements.

These smaller homes are often called "missing middle housing," a term for housing options that bridge the gap between large single-family homes and multifamily housing. They provide an opportunity to increase homeownership by offering first-time buyers more affordable options in higher-priced real estate markets. Best practice research shows that allowing small lot subdivisions on multifamily sites gives developers more flexibility, supports new building types, and expands homeownership opportunities.

Since the Board's direction in 2021, several new State bills have been adopted to improve housing affordability. AB 803 supports small lot developments within multifamily zones and allows for small lot subdivision projects through a discretionary process. A discretionary approval process is one where the decision-making body, such as the Planning Commission or the Board, can use their discretion to condition and approve a project. Additionally, discretionary processes require projects to complete environmental reviews. This bill has specific geographic requirements, such as being within an urban area or urban cluster, as defined by the U.S. Census Bureau. It also restricts applicability to sites under five acres with densities of less than 30 dwelling units per acre. A total of 5,358 acres are eligible for the small lot subdivision process under AB 803. Attachment A shows the portions of the unincorporated area eligible for this State program.

During outreach events, staff received feedback requesting increased flexibility in developing small lot projects and additional measures to streamline these housing types beyond what is available under State law. In response, staff has developed two recommendations for Board consideration. These recommendations are designed to reduce the time and cost associated with environmental review for these projects and expand the areas where small lot developments can occur by removing restrictions on parcel size and density.

If directed by the Board, to implement these recommendations, staff will use the Development Feasibility Analysis (DFA) Programmatic Environmental Impact Report or other appropriate environmental analysis (Environmental Analysis) previously directed by the Board. By leveraging the Environmental Analysis, there will be no additional costs and no additional funding required for their implementation.

Small Lot Subdivision Recommendations	Purpose	Funding	Timeline
1. <u>Expand the Small Lot Subdivision Program Beyond State Law.</u> Expand where AB 803 supports Small Lot Subdivision to include all parcels within Vehicle Miles Traveled (VMT) Efficient and Infill areas that have a density of	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA

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30 units per acre. This approach would apply the program to 570 acres beyond those eligible for AB 803. Staff can use the Environmental Analysis, as directed by the Board, to expand the program to these areas.			Environmental Analysis
2. <u><i>Streamline Individual Projects Environmental Reviews</i></u> . Conduct an environmental review for projects eligible under AB 803 located within VMT Efficient and Infill areas. This approach reduces the need for applicants to complete individual environmental reviews, benefiting future projects by creating a more efficient, cost-effective, and predictable process. Staff can use the Environmental Analysis, as directed by the Board, to complete the environmental review of these projects.	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis

Senior Housing and Assisted Living Facilities (Housing Element Program 3.3.3.A.)

Senior housing is a broad term that describes housing specifically for older adults aged 62 or older, or adults aged 55 or older residing within a designated Senior Citizen Housing Development as defined by the California Civil Code. Senior Citizen Housing Developments are residential projects comprised of at least 35 dwelling units for qualifying residents, as defined above. The term “assisted living facility” is used to describe facilities that provide both housing and assistance with personal care, such as eating, using the restroom, getting dressed, and showering.

As San Diego County's population of older adults continues to grow, new housing resources will be needed to meet their needs. According to the 2022 American Community Survey, adults 60 years and older made up 21% of the county's population, which is expected to increase. Twenty-five percent of older adults rent, and of those that rent, 63% pay at least one-third of their income on rent. Thirty-four percent of older adults live alone and need options for aging independently in their homes (2022 American Community Survey).

Through best practice research and meetings with housing developers, older adults, older adult advocates, and residents of the unincorporated community, staff identified barriers to production of Senior Housing and Assisted Living Facilities. Some barriers include the high costs and time for development, and the current County density bonus programs for these developments being insufficient. Advocates noted the lack of support for accessible housing such as universal design and Visitability standards that ensure people with mobility impairments are able to live in and visit homes. Additionally, the high cost of acquiring land presents a barrier in developing Senior Housing and Assisted Living Facilities. Stakeholders also highlighted the difficulties older adults encounter when retrofitting their homes with necessary accessibility modifications, especially when costs become prohibitive for those on fixed incomes. Integrating these improvements during initial construction could mitigate such financial strains.

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Staff developed five recommendations for the Board's consideration. These recommendations remove regulatory barriers and provide incentives for developing Senior Housing and Assisted Living Facilities with enhanced accessibility features and inclusive design standards. If directed by the Board, staff will use 0.5 existing FTE to perform this work. Additionally, staff will use the DFA Environmental Analysis to complete the environmental review under Recommendation 1. Staff is recommending an Overlay Zone within VMT Efficient and Infill areas to maximize efficiency with leveraging existing environmental reviews, align with sustainability goals, and address stakeholder feedback that senior housing should be built in areas with access to services and amenities. If staff is directed to expand the Overlay Zone beyond these areas, additional funding may be needed to conduct further environmental analysis. The estimated cost to develop the Overlay Zone under Recommendation 1 is \$350,000. The density bonuses proposed under Recommendations 2, 3, and 4 would not be restricted to specific areas, but would apply throughout the unincorporated County. To complete the Zoning Ordinance Update under Recommendations 2, 3, and 4 is \$450,000. No additional funding is needed to cover these costs, as they will be integrated into existing housing related work plan efforts. Also, there are no additional costs and no additional funding required for the implementation of Recommendation 5.

Senior Housing and Assisted Living Facilities Recommendations	Purpose	Funding	Timeline
1. <u>Create a Senior Housing and Assisted Living Facilities Overlay Zone.</u> Develop an overlay zone to incentivize the development of senior housing and assisted living facilities within VMT Efficient and Infill areas. The overlay is a regulatory tool that creates an additional layer on top of existing zoning, providing tailored regulations such as building height, parking requirements, and incentives that address specific needs or goals. This overlay will streamline the approval process and reduce regulatory barriers. To implement this overlay, an environmental review can be conducted using the Environmental Analysis as directed by the Board.	Remove regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis Timeline
2. <u>Expand the County's Density Bonus Program for Senior Housing Projects.</u> Expand the County's existing Density Bonus program to provide an additional 20% bonus and one additional incentive beyond what is currently available for senior housing projects.	Provide incentives	No additional funding needed	FY 26-27

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Senior Housing and Assisted Living Facilities Recommendations	Purpose	Funding	Timeline
3. <u>Expand the County's Density Bonus Program for Universal Design Projects.</u> Expand the County's existing Density Bonus program to provide a 10% density bonus and two incentives if at least 20% of a project's units meet universal design standards. Universally designed housing is designed and built to be fully functional for all persons in all stages of life, regardless of ability or mobility. Universal design features include entrances without steps, interior and vertical circulation, and accessible amenities such as bathrooms, kitchens, and storage areas.	Provide incentives	No additional funding needed	FY 26-27
4. <u>Expand the County's Density Bonus Program for Visitability Projects.</u> Expand the County's existing Density Bonus program to provide a 10% density bonus and two incentives if at least 30% of the units meet Visitability standards. "Visitability" standards are less extensive than "Universal Design" standards, but can still enable current and future residents to age and adjust to temporary or permanent mobility issues and accommodate visitors with disabilities. To meet Visitability standards, a unit must have an entrance with no steps, doors with 32 inches of clear passage, and one wheelchair-accessible bathroom.	Provide incentives	No additional funding needed	FY 26-27
5. <u>Enhance the County's Surplus Land Process.</u> Direct County departments to annually identify excess land, if any, for the County's Department of General Services' Surplus program, which provides underused County-owned land for County reuse or consideration for the development of affordable housing as outlined in the Surplus Land Act. By identifying land for Surplus or Exempt Surplus declaration, underused land can be leveraged to address the need for more affordable housing, including affordable housing for older adults, fostering a more inclusive and supportive community.	Provide incentives	No additional funding needed	Immediate

County By-Right Program

A by-right or ministerial approval process involves no discretionary review or hearings to obtain project approval. A building permit can be issued if the project meets all objective zoning, design,

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and building safety standards. It also provides more certainty for the community and developers since projects must meet established objective design and planning standards to be eligible for by-right approval. This process is faster and less expensive for developers in comparison to discretionary approvals which require environmental review and may require approval by the Planning Commission and or the Board of Supervisors.

AB 1397 (2017) requires the County to process by-right any projects on certain Regional Housing Needs Assessment (RHNA) sites identified in the Housing Element Site Inventory as suitable for affordable housing development. These projects must allocate at least 20% of the units as deed-restricted affordable housing for lower-income families (up to 80% of the Area Median Income, AMI). The Housing Element Site Inventory is a component of the Housing Element, listing sites with development capacity (i.e., density) to accommodate the County's RHNA allocation. The RHNA represents the number of housing units the County must plan for, categorized by income levels based on AMI. The County's 6th Cycle Site Inventory includes 236 sites, with 44 qualifying for the by-right process under AB 1397. State legislation in recent years has taken an active approach to expand by-right approvals for mixed use developments. Recently enacted Assembly Bill (AB) 2011 (2022) allows housing as a primary use in commercial, office, and parking zones and Senate Bill (SB) 6 (2022) allows for by-right approval of multifamily housing located in census designated urban areas. Attachment D further describes recent legislation and its applicability within the unincorporated areas.

On July 14, 2021 (1), the Board directed staff to evaluate the feasibility of creating a by-right process for housing projects proposed in commercial and mixed-use zones. Findings from this analysis can be found in Attachment E. At the same hearing, the Board also directed staff to evaluate the feasibility of creating a by-right process for additional RHNA sites that do not qualify under AB 1397, but that also allocate at least 20% of the units as deed-restricted affordable housing for lower-income families. Additionally, on May 24, 2023 (12), the Board directed staff to prepare the Environmental Analysis within VMT Efficient and Infill areas to help streamline housing development in these areas. Projects that require discretionary review must complete an environmental review of their impacts. The Environmental Analysis can streamline this process by providing a one-time analysis of the environmental impacts of the area and corresponding mitigation measures. As a result, discretionary projects consistent with the Environmental Analysis would require fewer additional analyses, saving applicants time and costs. Currently some General Plan compliant projects are not required to conduct environmental analysis but some may require a discretionary permit. By conducting environmental analysis for a County Ry-Right program, eligible projects could be approved through a ministerial process thus expanding streamlining beyond the General Plan's current capacity. Discretionary permits would still be required if a project impacts a sensitive resource such as environmentally sensitive lands, a historical resource, or is located within the Coastal Zone.

The Environmental Analysis can also be used to conduct parcel-specific analyses for RHNA sites where the Environmental Analysis applies. It can allow projects to be reviewed by-right, without needing a public hearing to obtain approval, incentivizing the development of these sites by making them easier and less expensive to develop. Since the RHNA sites have been identified for housing development, as part of the Environmental Analysis, staff can complete site-specific

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analyses and develop mitigation measures for these sites that can be used by applicants, enabling them to be processed by-right. Future housing projects consistent with the Environmental Analysis would not need to complete individual environmental or site design reviews and would be able to move more quickly into construction permits (including engineering and building permits). Affordable housing could be required for by-right projects, as directed by the Board and consistent with AB 1397.

During outreach events, staff received feedback expressing support for developing a by-right program to facilitate affordable housing development throughout the unincorporated communities. Stakeholders noted that a streamlined approval and entitlement process is crucial for increasing the housing supply, which addresses the region's housing shortage and affordability challenges. Public input also highlighted that projects that are 100% affordable housing and receive County funds or are built on County property are exempt from the Zoning Ordinance and are not required to process a land use permit like a Site Plan or Major Use Permit. However, similar projects without County funding and not proposed on County land do not receive the same exemption and may be required to process a land use permit, including Site Plans and Major Use Permits. Regardless of the requirement for a land use permit, most housing projects require environmental review unless they are ministerial under State law like supportive housing projects. While the County cannot exempt 100% affordable housing projects that do not qualify as supportive housing, the Environmental Analysis can analyze the environmental impacts of these projects to allow them by-right.

Based on stakeholder input and best practice research, staff developed two recommendations for the Board's consideration that can promote further affordable housing development on RHNA sites and other portions of the unincorporated area where growth is desired. If directed by the Board, staff will use the Environmental Analysis to implement both Recommendations 1 and 2. By leveraging the Environmental Analysis, there will be no additional costs and no additional funding required for the implementation of these recommendations.

By-Right Development Recommendations	Purpose	Funding	Timeline
1. <u>Expand the County's By-Right Program to all VMT Efficient and Infill RHNA sites.</u> Expand the County's by-right housing development program to include RHNA sites not currently eligible under AB 1397, provided these sites are within VMT Efficient and Infill areas and allocate at least 20% of their units to affordable housing for lower income households. Of the 236 RHNA sites included in the Site Inventory, 192 are ineligible for the AB 1397 program. This expansion would provide a by-right process for an additional 100 RHNA Sites. Staff will also monitor and identify opportunities to facilitate by-right development on the remaining 92 RHNA sites outside VMT Efficient and Infill	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis Timeline

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By-Right Development Recommendations	Purpose	Funding	Timeline
areas. Staff can use the Environmental Analysis, as directed by the Board, to complete the environmental review of these projects.			
2. <u>Allow 100% affordable housing projects by-right within VMT Efficient and Infill areas.</u> Create a by-right process for all housing projects that provide 100% of their units as affordable for low-income households, provided they are located within VMT efficient and infill areas. To implement this, staff can use the Environmental Analysis, as directed by the Board, to complete the environmental review of these projects.	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis Timeline

Accessory Dwelling Units (ADUs) as Condominiums or Assembly Bill 1033 Implementation
 AB 1033, adopted by the State in 2023 and effective since January 2024, is an opt-in bill that permits the sale of ADUs independent of primary residences. This bill allows the County to adopt a local ordinance enabling ADUs to be sold separately as condominiums. If the Board directs staff to develop such an ordinance, criteria can be established to determine project eligibility and any additional requirements.

Under AB 1033, separate ownership of different portions of a single property is legally possible without creating separate lots. Typically ADUs cannot be separately sold unless the lot is subdivided, which may be infeasible due to minimum lot size requirements or limited access to the right of way. Implementing AB 1033 would permit creating a condominium map and allowing property owners to divide the property without a typical lot split, bypassing lot size constraints and expediting the process, saving time and money.

If implemented by the County, AB 1033 requires the establishment of a homeowner's association (HOA) to manage dues for the maintenance of the property's exterior and shared spaces, such as driveways, pools, common roofs, and shared infrastructure such as sewer or septic systems. Condominium maps delineating the individual units and common areas would be recorded with the County Recorder's office. Since the administration of HOAs is a civil matter outside the County's land use authority, if the primary residence is already part of an existing HOA, the HOA must approve the condominium map and allow both units to join the association.

Best practices indicate that enabling the separate sale of ADUs can produce equity benefits for communities by reducing displacement and gentrification, providing flexibility for homeowners, and allowing family members and relatives to remain in the community. Homeowners wishing to sell the primary residence and move into the ADU can increase and access their equity. As a substantial amount of the County's new housing has been ADUs, approximately 28% of the County's issued building permits between January 2021 through December 2023, allowing their separate sale can increase the number of homes available for ownership, addressing the historical lack of new housing inventory in the market.

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The separate sale of ADUs also increases the feasibility for developers by offering financing flexibility. Under the current guidelines from the Federal Housing Finance Agency (FHFA), a former ADU converted into a condominium will be treated as a condominium development of fewer than 4 units, which face fewer requirements and are eligible for more funding opportunities. Additionally, during public outreach, stakeholders noted that the separate sale of ADUs creates naturally affordable homeownership opportunities, typically selling for 40-60% of the average single-family home price. In general, the separate sale of ADUs provides the opportunity for diverse price points, appealing to buyers of different income levels.

Stakeholders, including housing advocates and developers, have expressed support for this initiative, citing added flexibility in ADU development, opportunities for first-time home buyers, and equity benefits. However, concerns have been raised about the potential negative impacts of increased ADU development, such as traffic and infrastructure strain, particularly in areas lacking infrastructure services. Although the bill does not increase density, community members are concerned that it would further incentivize the construction of ADUs in areas of the County that lack access to water, sewer, and other essential infrastructure. Implementing AB 1033 would not impact where or how many ADUs can be developed. ADUs are currently allowed throughout the unincorporated area if they comply with water and sewer regulations outlined by the Department of Environmental Health and Quality (DEHQ). ADUs that are sold separately as condominiums would remain subject to these same regulations.

Additionally, to further promote homeownership, stakeholders recommended that the County's ordinance include a first right of offer to buyers intending to be owner-occupants. This would require sellers to wait a period of time (e.g., 60 days) before accepting an offer from real estate investor or until an owner-occupant buyer provides an offer. This would provide buyers intending to be owner-occupants an opportunity to purchase the unit before it can be added to an investment portfolio. Finally, stakeholders expressed concerns about the potential conflicts within a two-party HOA. Although these would be civil disputes and not involve the County directly, state law requires inclusion of dispute resolution mechanisms in the HOA Covenants, Conditions, and Restrictions (CC&Rs), and this requirement would apply under the County's local ordinance.

In response to the Board's direction, public outreach, and best practice reviews, staff has developed a recommendation for the Board's consideration to allow the separate sale of ADUs from the primary home in the unincorporated areas of the County. If directed by the Board, staff will use 0.5 existing FTE to perform this work. The estimated cost to complete the Zoning Ordinance Update to implement is \$450,000. No additional funding is needed to cover these costs, as they will be integrated into existing work plan efforts. Allowing the separate sale of ADUs may result in an influx of applications. If directed by the Board, the impacts on the department's processing of these potential applications will be discussed at the time of the program's adoption and may be included in a future Operational Plan Budget.

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Separate Sale of ADUs Recommendation	Purpose	Funding	Timeline
<p>1. <u>Create a Local Ordinance that Allows for the Separate Sale of ADUs with Specific Criteria Beyond AB 1033.</u> Develop a local ordinance to allow for the separate sale of ADUs. Staff will conduct public outreach to identify local criteria, which may include:</p> <ul style="list-style-type: none"> • Requirements to ensure compliance with State law and effective dispute resolution clauses. • Require first right of offer to buyers that are owner occupants to further promote homeownership. 	Reduce regulatory barriers	No additional funding needed	FY 26-27

Public Input and Outreach

As part of the outreach for the Streamlining Opportunities, staff held various meetings and events to gather feedback that informed the development of program opportunities. These efforts included focus group meetings, virtual public webinars, stakeholder meetings, and attending Community Planning and Sponsor Group (CPSG) meetings. Feedback received from these meetings is detailed in Attachment C.

In the focus group meetings, staff facilitated discussions on initial findings from the best practice review and solicited feedback on additional data sources and considerations for developing the County's program. Participants included affordable housing developers, market-rate housing developers, and environmental and equity groups.

Individual meetings were held with several stakeholder groups, including the Land Development Technical Working Group, Environmental Coalition, Labor Unions, Building Industry Association, Farm Bureau, Wildlife Agencies, San Diego Quality of Life Coalition, American Association of Retired Persons (AARP), Del Mar Health/Senior Housing, Community HousingWorks, Serving Seniors, Bridge Housing, Wakeland, Age Well San Diego, Housing Land Trust of Sonoma County, Homeowner's Associations, Casita Coalition, the San Diego Housing Federation, Persons with Disabilities Committee, and San Diego Chambers Transportation and Land Development Committee.

Three virtual public webinars were held in February, March, and June of 2024 to present the goals and objectives of each program and provide an overview of the draft opportunities. While the first two webinars focused on Small Lot Subdivision, Senior Housing and Assisted Living Facilities, and By-Right Program, the third session introduced AB 1033 and the separate sale of ADUs. Participants of the webinars provided feedback, emphasizing the need for flexible housing programs and affordable housing opportunities in areas with access to amenities like transit, healthcare, and retail.

SUBJECT: OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND ATTAINABLE HOUSING AND NOTICE OF EXEMPTION (DISTRICTS: ALL)

Staff attended eight CPSG meetings in Jamul, Spring Valley, San Dieguito, Crest/Dehesa/Granite Hills/Harbison, Valley Center, Rainbow, Fallbrook, and Twin Oaks Valley. These meetings aimed to gather feedback and listen to community concerns regarding the draft program opportunities. CPSG members and attendees highlighted the importance of implementing programs in locations with essential resources and community amenities while avoiding areas prone to wildfires or floods and regions lacking sufficient infrastructure. Concerns were also expressed about the separate sale of ADUs in areas with limited utilities and infrastructure to support housing development. Community members also supported universal design principles (Senior Housing Option #3) to facilitate aging in place and create affordable, accessible, and assisted living housing for people of all ages with disabilities. The community also emphasized the need to ensure compliance with objective standards and explore opportunities to rezone areas or repurpose old office buildings and hotels for affordable housing.

The outreach efforts conducted provided valuable feedback from a diverse range of stakeholders, members of the public, and community groups. The input received played a significant role in shaping the development of the program opportunities. This collaborative approach ensured that the proposed program opportunities prioritized addressing community needs, housing affordability, providing flexibility to reduce regulatory barriers, and offering incentives for new housing types in well-resourced areas, all while considering environmental and infrastructure limitations.

ENVIRONMENTAL STATEMENT

Accepting the presentation related to the Opportunities for Streamlining Affordable and Attainable Housing (Streamlining Opportunities) project and providing direction to staff to further explore the opportunities discussed in this Board letter is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines as it would have no potential for resulting in a physical change to the environment, directly or indirectly. Accepting these items will not commit the County to any definitive course of action and would have no potential for resulting in significant physical change or effect on the environment, directly or indirectly. Subsequent actions would be reviewed pursuant to CEQA and presented to the Board for consideration before implementation. Therefore, it can be seen with certainty that there is no possibility that today's action may have a significant effect on the environment and that the actions are exempt or not subject to CEQA.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support all the Initiatives in the County of San Diego's 2023-2028 Strategic Plan. The project proposes draft ordinances that actively address climate change through innovative, proven policies (Sustainability Initiative), use policies to provide housing opportunities that meet the needs of the community (Equity Initiative), foster new ideas for implementing sustainable land use planning (Empower Initiative), provide programs and services that enhance community (Community Initiative), and incorporate equity and environmental justice to reduce disproportionality in terms of housing access (Justice Initiative).

SUBJECT: OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND
ATTAINABLE HOUSING AND NOTICE OF EXEMPTION (DISTRICTS:
ALL)

Respectfully submitted,



DAHVIA LYNCH
Deputy Chief Administrative Officer

ATTACHMENT(S)

Note: Due to the size of the attachments, the documents are available online through the Clerk of the Board's website at www.sandiegocounty.gov/content/sdc/cob/bosa.html.

Attachment A – Summary of Opportunities

Attachment B – Best Practices Research Summary

Attachment C – Outreach Summary

Attachment D – By-Right Development in Commercial and Mixed-use Zones

Attachment E – Action Sheet

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COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

MONICA MONTGOMERY STEPPE
Fourth District

JIM DESMOND
Fifth District

DATE: October 09, 2024

05

TO: Board of Supervisors

SUBJECT

OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND ATTAINABLE HOUSING AND NOTICE OF EXEMPTION FROM CEQA (DISTRICTS: ALL)

OVERVIEW

The County of San Diego (County) Board of Supervisors (Board) is actively addressing housing affordability through various efforts to increase housing opportunities across all income levels. The Opportunities for Streamlining Affordable and Attainable Housing (Streamlining Opportunities) project builds on previous efforts to address affordability by exploring the feasibility of several innovative programs designed to expand affordable and attainable housing opportunities without adding regulation or development costs since they are all voluntary and incentive-based. Affordable housing is defined as housing that costs no more than 30% of a household's income. Attainable housing refers to housing that is accessible to those who may not qualify for traditional deed-restricted housing – homes legally bound by covenants to remain affordable for a period of time – but who still face challenges with the high costs of market-rate housing.

The Streamlining Opportunities project is a response to Board direction provided on July 14, 2021 (1) and March 13, 2024 (10) to explore opportunities for new housing programs. At this hearing, staff was directed to explore the feasibility of housing programs that would create more home ownership opportunities, facilitate the production of housing for older adults, and remove barriers to affordable housing development. The Streamlining Opportunities project includes four new programs that are voluntary and incentive-based, aligning with the County's goals of promoting equitable access to housing, facilitating the production of senior and low-income housing, and expanding homeownership opportunities. These programs are aligned with and will be integrated into the County's 6th Cycle Housing Element Implementation Plan to ensure efficient implementation timelines, resource allocation, and funding. The recommendations that staff are presenting today will be accomplished using existing funding and will result in no net change in General Fund cost. Staff conducted best practice research and engaged with community members and stakeholders to identify the following new programs. These will be developed by the end of the 6th Cycle Housing Element cycle (2029), with some being completed in the next 18-36 months and others completed in FY 26-27, if the Board directs staff to prioritize these efforts in the PDS housing workplan:

SUBJECT: OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND ATTAINABLE HOUSING AND NOTICE OF EXEMPTION (DISTRICTS: ALL)

1. *Small Lot Subdivision Program*: Encourages the design and construction of smaller single-family homes.
2. *Senior Housing and Assisted Living Facility Program*: Creates incentives to encourage the construction of more Senior Housing and Assisted Living Housing Facilities. It also incorporates accessible design principles to allow anyone to visit or live in homes comfortably, regardless of physical abilities.
3. *Expanded By-Right Program*: Expands streamlined ministerial approval to include housing developments that provide at least 20% of their units as affordable housing for low-income (80% of the Area Median Income and below) families and individuals.
4. *Accessory Dwelling Units (ADUs) Ownership Opportunities Program*: Allows the sale of ADUs separate from the primary home on the property.

Today's request is for the Board to provide direction on recommendations brought forward for each program to proceed with the development of new Streamlining Opportunities programs. These programs will be integrated into the broader package of efforts under the County's 6th Cycle Housing Element Implementation Plan.

RECOMMENDATION(S)

DEPARTMENT OF PLANNING & DEVELOPMENT SERVICES

Planning & Development Services recommends that the Board of Supervisors:

1. Find in accordance with Section 15061(b)(3) that today's actions are exempt from CEQA because they do not meet the definition of a project and pursuant to the commonsense exemption because it can be seen with certainty that there is no possibility today's actions may have a significant effect on the environment.
2. Receive the materials for the Opportunities for Streamlining Affordable and Attainable Housing and direct staff to further pursue the recommendations provided to develop the Small Lot Subdivision Program, Senior Housing and Assisted Living Facility Program, Expanded By-Right Program, and the Accessory Dwelling Units (ADUs) Ownership Opportunities Program.

EQUITY IMPACT STATEMENT

Planning & Development Services (PDS) recognizes the systemic impacts that inequitable policies create for residents of the San Diego region. The Opportunities for Streamlining Affordable and Attainable Housing Project potential programs seek to equitably address the unincorporated area's housing needs by increasing the production of housing units for low-income families, first time homebuyers, and older adults. By developing more housing opportunities across all income levels, these programs will help reduce housing inequity. Updates to the density bonus program as part of the Senior Housing and Assisted Living Facilities Program would incentivize the development of housing projects that are accessible to people living with disabilities, including older adults. This will foster inclusivity and reduce systemic barriers by ensuring everyone can access safe,

SUBJECT: OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND ATTAINABLE HOUSING AND NOTICE OF EXEMPTION (DISTRICTS: ALL)

accommodating living environments regardless of ability or mobility. The Accessory Dwelling Units (ADUs) Ownership Opportunities Program and the Small Lot Subdivision Program aim to create more attainable homeownership opportunities. This will enhance equity by enabling individuals from diverse socioeconomic backgrounds to build wealth, support financial stability, and invest in their communities, thereby reducing disparities in homeownership rates and fostering greater economic inclusion.

SUSTAINABILITY IMPACT STATEMENT

The Opportunities for Streamlining Affordable and Attainable Housing (Streamlining Opportunities) will implement the County's Housing Element and facilitate compliance with State housing law. The Streamlining Opportunities effort evaluates actions to support affordable housing development and expand housing opportunities for communities across the unincorporated area of San Diego County by facilitating the development of affordable housing for low and moderate-income (up to 120% of the Area Median Income, or AMI) individuals, families, and people at all life stages. Through engaging with unincorporated communities during this process, the Streamlining Opportunities effort advances Sustainability Goals #1 and #2 to provide just and equitable access to County policy decision-making in support of sustainable communities. In addition, the Streamlining Opportunities effort has been developed to support the sustainable development of housing within Vehicle Miles Traveled (VMT) Efficient and Infill areas. To support these efforts an Environmental Analysis can help streamline housing projects by providing a one-time analysis of the environmental impacts within these areas and corresponding mitigation measures. As a result, discretionary projects consistent with the Environmental Analysis would require fewer additional analyses, saving applicants time and costs.

FISCAL IMPACT

There is no fiscal impact associated with today's recommendation. There will be no net change in General Fund cost and no additional staff years.

Though there is no impact on General Fund or net FTEs, there are potential opportunity costs depending on Board direction. If directed to move forward with the Senior and Assisted Living Housing and Accessory Dwelling Units (ADUs) Ownership Opportunities programs, existing staff and resources will be directed toward these projects as opposed to future Board-directed housing projects which could require additional allocation of existing staff and resources. Depending on the opportunities selected by the Board, this could result in up to 1.0 FTE and up to \$850,000 being directed toward the programmatic opportunities outlined in this Board letter. The Small Lot Subdivision Program and the Expanded By-Right Program opportunities can be incorporated into the scope of the upcoming Development Feasibility Analysis Programmatic Environmental Impact Report or other appropriate environmental analysis (Environmental Analysis) and would not result in FTEs or resources being redirected. Further details on the potential costs are detailed under each program section of the board letter.

Again, there will be no additional cost associated with these actions. Staff will also monitor funding opportunities and mechanisms to leverage other financing sources.

BUSINESS IMPACT STATEMENT

SUBJECT: OPPORTUNITIES FOR STREAMLINING AFFORDABLE AND ATTAINABLE HOUSING AND NOTICE OF EXEMPTION (DISTRICTS: ALL)

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

California is facing a housing affordability crisis due to the escalating cost of housing. According to the U.S. Census Bureau (2022), most renter households are cost-burdened, meaning they spend more than 30% of their monthly income on housing costs. Affordable housing is defined by the U.S. Department of Housing and Urban Development (HUD) as housing for which total costs, including rent, mortgage, and utilities, consume no more than 30% of household income. State law requires that the County of San Diego (County) address the housing needs of its residents across all income levels by adopting a Housing Element as part of its General Plan.

The County's General Plan Housing Element outlines designated land, policies, and initiatives to support the development of housing that meets the diverse needs of residents in the unincorporated area of San Diego County (unincorporated area) across various income levels and life stages. On July 14, 2021 (1), the Board of Supervisors (Board) adopted the 6th Cycle Housing Element (Housing Element), encompassing 60 implementation actions. These actions foster housing development, including efforts to boost overall housing production, promote affordable housing development, and facilitate the construction of Accessory Dwelling Units (ADUs). During the Housing Element adoption hearing, the Board directed staff to explore the feasibility of developing the following programs:

- *Small Lot Subdivision Program* to provide additional homeownership opportunities by encouraging the construction of smaller single-family homes that are attainable through design.
- *Senior Housing and Assisted Living Facilities Program* that would facilitate and remove barriers to Senior Housing and Assisted Living Facilities.
- *Expanded By-Right Program* expands streamlined ministerial approval to include housing developments that provide at least 20% of its units as affordable housing for lower-income (80% of the AMI and below) families and individuals.
- *Accessory Dwelling Units (ADUs) Ownership Opportunities Program* to further promote housing opportunities, on March 13, 2024, the Board directed staff to evaluate the feasibility of implementing a new State law adopted in 2023, Assembly Bill (AB) 1033, which allows jurisdictions to adopt an ordinance permitting the sale of ADUs separately from the primary home.

Attachment A provides additional details on each of these programs, collectively referred to as Opportunities for Streamlining Affordable and Attainable Housing Project (Streamlining Opportunities). Staff has conducted best practice research, summarized in Attachment B, and outreach, summarized in Attachment C, for each program.

Small Lot Subdivision Program (Housing Element Program 3.1.1.N.)

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A subdivision is a land development process in which a larger parcel of land is divided into multiple lots. Small lot subdivisions promote different building types, including duplexes, triplexes, townhomes or fully detached homes on smaller lots than typical subdivisions. Due to their smaller size, these homes are typically more affordable than larger-lot suburban-style homes and can help meet the housing needs of moderate-income families earning between 80% and 120% of the Area Median Income (AMI). These units can be attached or detached, share common driveways, and have reduced setbacks or off-street parking requirements.

These smaller homes are often called "missing middle housing," a term for housing options that bridge the gap between large single-family homes and multifamily housing. They provide an opportunity to increase homeownership by offering first-time buyers more affordable options in higher-priced real estate markets. Best practice research shows that allowing small lot subdivisions on multifamily sites gives developers more flexibility, supports new building types, and expands homeownership opportunities.

Since the Board's direction in 2021, several new State bills have been adopted to improve housing affordability. AB 803 supports small lot developments within multifamily zones and allows for small lot subdivision projects through a discretionary process. A discretionary approval process is one where the decision-making body, such as the Planning Commission or the Board, can use their discretion to condition and approve a project. Additionally, discretionary processes require projects to complete environmental reviews. This bill has specific geographic requirements, such as being within an urban area or urban cluster, as defined by the U.S. Census Bureau. It also restricts applicability to sites under five acres with densities of less than 30 dwelling units per acre. A total of 5,358 acres are eligible for the small lot subdivision process under AB 803. Attachment A shows the portions of the unincorporated area eligible for this State program.

During outreach events, staff received feedback requesting increased flexibility in developing small lot projects and additional measures to streamline these housing types beyond what is available under State law. In response, staff has developed two recommendations for Board consideration. These recommendations are designed to reduce the time and cost associated with environmental review for these projects and expand the areas where small lot developments can occur by removing restrictions on parcel size and density.

If directed by the Board, to implement these recommendations, staff will use the Development Feasibility Analysis (DFA) Programmatic Environmental Impact Report or other appropriate environmental analysis (Environmental Analysis) previously directed by the Board. By leveraging the Environmental Analysis, there will be no additional costs and no additional funding required for their implementation.

Small Lot Subdivision Recommendations	Purpose	Funding	Timeline
1. <u>Expand the Small Lot Subdivision Program Beyond State Law.</u> Expand where AB 803 supports Small Lot Subdivision to include all parcels within Vehicle Miles Traveled (VMT) Efficient and Infill areas that have a density of	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA

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30 units per acre. This approach would apply the program to 570 acres beyond those eligible for AB 803. Staff can use the Environmental Analysis, as directed by the Board, to expand the program to these areas.			Environmental Analysis
2. <u><i>Streamline Individual Projects Environmental Reviews.</i></u> Conduct an environmental review for projects eligible under AB 803 located within VMT Efficient and Infill areas. This approach reduces the need for applicants to complete individual environmental reviews, benefiting future projects by creating a more efficient, cost-effective, and predictable process. Staff can use the Environmental Analysis, as directed by the Board, to complete the environmental review of these projects.	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis

Senior Housing and Assisted Living Facilities (Housing Element Program 3.3.3.A.)

Senior housing is a broad term that describes housing specifically for older adults aged 62 or older, or adults aged 55 or older residing within a designated Senior Citizen Housing Development as defined by the California Civil Code. Senior Citizen Housing Developments are residential projects comprised of at least 35 dwelling units for qualifying residents, as defined above. The term “assisted living facility” is used to describe facilities that provide both housing and assistance with personal care, such as eating, using the restroom, getting dressed, and showering.

As San Diego County's population of older adults continues to grow, new housing resources will be needed to meet their needs. According to the 2022 American Community Survey, adults 60 years and older made up 21% of the county's population, which is expected to increase. Twenty-five percent of older adults rent, and of those that rent, 63% pay at least one-third of their income on rent. Thirty-four percent of older adults live alone and need options for aging independently in their homes (2022 American Community Survey).

Through best practice research and meetings with housing developers, older adults, older adult advocates, and residents of the unincorporated community, staff identified barriers to production of Senior Housing and Assisted Living Facilities. Some barriers include the high costs and time for development, and the current County density bonus programs for these developments being insufficient. Advocates noted the lack of support for accessible housing such as universal design and Visitability standards that ensure people with mobility impairments are able to live in and visit homes. Additionally, the high cost of acquiring land presents a barrier in developing Senior Housing and Assisted Living Facilities. Stakeholders also highlighted the difficulties older adults encounter when retrofitting their homes with necessary accessibility modifications, especially when costs become prohibitive for those on fixed incomes. Integrating these improvements during initial construction could mitigate such financial strains.

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Staff developed five recommendations for the Board's consideration. These recommendations remove regulatory barriers and provide incentives for developing Senior Housing and Assisted Living Facilities with enhanced accessibility features and inclusive design standards. If directed by the Board, staff will use 0.5 existing FTE to perform this work. Additionally, staff will use the DFA Environmental Analysis to complete the environmental review under Recommendation 1. Staff is recommending an Overlay Zone within VMT Efficient and Infill areas to maximize efficiency with leveraging existing environmental reviews, align with sustainability goals, and address stakeholder feedback that senior housing should be built in areas with access to services and amenities. If staff is directed to expand the Overlay Zone beyond these areas, additional funding may be needed to conduct further environmental analysis. The estimated cost to develop the Overlay Zone under Recommendation 1 is \$350,000. The density bonuses proposed under Recommendations 2, 3, and 4 would not be restricted to specific areas, but would apply throughout the unincorporated County. To complete the Zoning Ordinance Update under Recommendations 2, 3, and 4 is \$450,000. No additional funding is needed to cover these costs, as they will be integrated into existing housing related work plan efforts. Also, there are no additional costs and no additional funding required for the implementation of Recommendation 5.

Senior Housing and Assisted Living Facilities Recommendations	Purpose	Funding	Timeline
1. <u>Create a Senior Housing and Assisted Living Facilities Overlay Zone.</u> Develop an overlay zone to incentivize the development of senior housing and assisted living facilities within VMT Efficient and Infill areas. The overlay is a regulatory tool that creates an additional layer on top of existing zoning, providing tailored regulations such as building height, parking requirements, and incentives that address specific needs or goals. This overlay will streamline the approval process and reduce regulatory barriers. To implement this overlay, an environmental review can be conducted using the Environmental Analysis as directed by the Board.	Remove regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis Timeline
2. <u>Expand the County's Density Bonus Program for Senior Housing Projects.</u> Expand the County's existing Density Bonus program to provide an additional 20% bonus and one additional incentive beyond what is currently available for senior housing projects.	Provide incentives	No additional funding needed	FY 26-27

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Senior Housing and Assisted Living Facilities Recommendations	Purpose	Funding	Timeline
3. <u>Expand the County's Density Bonus Program for Universal Design Projects.</u> Expand the County's existing Density Bonus program to provide a 10% density bonus and two incentives if at least 20% of a project's units meet universal design standards. Universally designed housing is designed and built to be fully functional for all persons in all stages of life, regardless of ability or mobility. Universal design features include entrances without steps, interior and vertical circulation, and accessible amenities such as bathrooms, kitchens, and storage areas.	Provide incentives	No additional funding needed	FY 26-27
4. <u>Expand the County's Density Bonus Program for Visitability Projects.</u> Expand the County's existing Density Bonus program to provide a 10% density bonus and two incentives if at least 30% of the units meet Visitability standards. "Visitability" standards are less extensive than "Universal Design" standards, but can still enable current and future residents to age and adjust to temporary or permanent mobility issues and accommodate visitors with disabilities. To meet Visitability standards, a unit must have an entrance with no steps, doors with 32 inches of clear passage, and one wheelchair-accessible bathroom.	Provide incentives	No additional funding needed	FY 26-27
5. <u>Enhance the County's Surplus Land Process.</u> Direct County departments to annually identify excess land, if any, for the County's Department of General Services' Surplus program, which provides underused County-owned land for County reuse or consideration for the development of affordable housing as outlined in the Surplus Land Act. By identifying land for Surplus or Exempt Surplus declaration, underused land can be leveraged to address the need for more affordable housing, including affordable housing for older adults, fostering a more inclusive and supportive community.	Provide incentives	No additional funding needed	Immediate

County By-Right Program

A by-right or ministerial approval process involves no discretionary review or hearings to obtain project approval. A building permit can be issued if the project meets all objective zoning, design,

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and building safety standards. It also provides more certainty for the community and developers since projects must meet established objective design and planning standards to be eligible for by-right approval. This process is faster and less expensive for developers in comparison to discretionary approvals which require environmental review and may require approval by the Planning Commission and or the Board of Supervisors.

AB 1397 (2017) requires the County to process by-right any projects on certain Regional Housing Needs Assessment (RHNA) sites identified in the Housing Element Site Inventory as suitable for affordable housing development. These projects must allocate at least 20% of the units as deed-restricted affordable housing for lower-income families (up to 80% of the Area Median Income, AMI). The Housing Element Site Inventory is a component of the Housing Element, listing sites with development capacity (i.e., density) to accommodate the County's RHNA allocation. The RHNA represents the number of housing units the County must plan for, categorized by income levels based on AMI. The County's 6th Cycle Site Inventory includes 236 sites, with 44 qualifying for the by-right process under AB 1397. State legislation in recent years has taken an active approach to expand by-right approvals for mixed use developments. Recently enacted Assembly Bill (AB) 2011 (2022) allows housing as a primary use in commercial, office, and parking zones and Senate Bill (SB) 6 (2022) allows for by-right approval of multifamily housing located in census designated urban areas. Attachment D further describes recent legislation and its applicability within the unincorporated areas.

On July 14, 2021 (1), the Board directed staff to evaluate the feasibility of creating a by-right process for housing projects proposed in commercial and mixed-use zones. Findings from this analysis can be found in Attachment E. At the same hearing, the Board also directed staff to evaluate the feasibility of creating a by-right process for additional RHNA sites that do not qualify under AB 1397, but that also allocate at least 20% of the units as deed-restricted affordable housing for lower-income families. Additionally, on May 24, 2023 (12), the Board directed staff to prepare the Environmental Analysis within VMT Efficient and Infill areas to help streamline housing development in these areas. Projects that require discretionary review must complete an environmental review of their impacts. The Environmental Analysis can streamline this process by providing a one-time analysis of the environmental impacts of the area and corresponding mitigation measures. As a result, discretionary projects consistent with the Environmental Analysis would require fewer additional analyses, saving applicants time and costs. Currently some General Plan compliant projects are not required to conduct environmental analysis but some may require a discretionary permit. By conducting environmental analysis for a County Ry-Right program, eligible projects could be approved through a ministerial process thus expanding streamlining beyond the General Plan's current capacity. Discretionary permits would still be required if a project impacts a sensitive resource such as environmentally sensitive lands, a historical resource, or is located within the Coastal Zone.

The Environmental Analysis can also be used to conduct parcel-specific analyses for RHNA sites where the Environmental Analysis applies. It can allow projects to be reviewed by-right, without needing a public hearing to obtain approval, incentivizing the development of these sites by making them easier and less expensive to develop. Since the RHNA sites have been identified for housing development, as part of the Environmental Analysis, staff can complete site-specific

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analyses and develop mitigation measures for these sites that can be used by applicants, enabling them to be processed by-right. Future housing projects consistent with the Environmental Analysis would not need to complete individual environmental or site design reviews and would be able to move more quickly into construction permits (including engineering and building permits). Affordable housing could be required for by-right projects, as directed by the Board and consistent with AB 1397.

During outreach events, staff received feedback expressing support for developing a by-right program to facilitate affordable housing development throughout the unincorporated communities. Stakeholders noted that a streamlined approval and entitlement process is crucial for increasing the housing supply, which addresses the region's housing shortage and affordability challenges. Public input also highlighted that projects that are 100% affordable housing and receive County funds or are built on County property are exempt from the Zoning Ordinance and are not required to process a land use permit like a Site Plan or Major Use Permit. However, similar projects without County funding and not proposed on County land do not receive the same exemption and may be required to process a land use permit, including Site Plans and Major Use Permits. Regardless of the requirement for a land use permit, most housing projects require environmental review unless they are ministerial under State law like supportive housing projects. While the County cannot exempt 100% affordable housing projects that do not qualify as supportive housing, the Environmental Analysis can analyze the environmental impacts of these projects to allow them by-right.

Based on stakeholder input and best practice research, staff developed two recommendations for the Board's consideration that can promote further affordable housing development on RHNA sites and other portions of the unincorporated area where growth is desired. If directed by the Board, staff will use the Environmental Analysis to implement both Recommendations 1 and 2. By leveraging the Environmental Analysis, there will be no additional costs and no additional funding required for the implementation of these recommendations.

By-Right Development Recommendations	Purpose	Funding	Timeline
1. <u>Expand the County's By-Right Program to all VMT Efficient and Infill RHNA sites.</u> Expand the County's by-right housing development program to include RHNA sites not currently eligible under AB 1397, provided these sites are within VMT Efficient and Infill areas and allocate at least 20% of their units to affordable housing for lower income households. Of the 236 RHNA sites included in the Site Inventory, 192 are ineligible for the AB 1397 program. This expansion would provide a by-right process for an additional 100 RHNA Sites. Staff will also monitor and identify opportunities to facilitate by-right development on the remaining 92 RHNA sites outside VMT Efficient and Infill	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis Timeline

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By-Right Development Recommendations	Purpose	Funding	Timeline
areas. Staff can use the Environmental Analysis, as directed by the Board, to complete the environmental review of these projects.			
2. <u>Allow 100% affordable housing projects by-right within VMT Efficient and Infill areas.</u> Create a by-right process for all housing projects that provide 100% of their units as affordable for low-income households, provided they are located within VMT efficient and infill areas. To implement this, staff can use the Environmental Analysis, as directed by the Board, to complete the environmental review of these projects.	Reduce regulatory barriers	No additional funding needed	18-36 months, depending on the Board's direction on the DFA Environmental Analysis Timeline

Accessory Dwelling Units (ADUs) as Condominiums or Assembly Bill 1033 Implementation
 AB 1033, adopted by the State in 2023 and effective since January 2024, is an opt-in bill that permits the sale of ADUs independent of primary residences. This bill allows the County to adopt a local ordinance enabling ADUs to be sold separately as condominiums. If the Board directs staff to develop such an ordinance, criteria can be established to determine project eligibility and any additional requirements.

Under AB 1033, separate ownership of different portions of a single property is legally possible without creating separate lots. Typically ADUs cannot be separately sold unless the lot is subdivided, which may be infeasible due to minimum lot size requirements or limited access to the right of way. Implementing AB 1033 would permit creating a condominium map and allowing property owners to divide the property without a typical lot split, bypassing lot size constraints and expediting the process, saving time and money.

If implemented by the County, AB 1033 requires the establishment of a homeowner's association (HOA) to manage dues for the maintenance of the property's exterior and shared spaces, such as driveways, pools, common roofs, and shared infrastructure such as sewer or septic systems. Condominium maps delineating the individual units and common areas would be recorded with the County Recorder's office. Since the administration of HOAs is a civil matter outside the County's land use authority, if the primary residence is already part of an existing HOA, the HOA must approve the condominium map and allow both units to join the association.

Best practices indicate that enabling the separate sale of ADUs can produce equity benefits for communities by reducing displacement and gentrification, providing flexibility for homeowners, and allowing family members and relatives to remain in the community. Homeowners wishing to sell the primary residence and move into the ADU can increase and access their equity. As a substantial amount of the County's new housing has been ADUs, approximately 28% of the County's issued building permits between January 2021 through December 2023, allowing their separate sale can increase the number of homes available for ownership, addressing the historical lack of new housing inventory in the market.

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The separate sale of ADUs also increases the feasibility for developers by offering financing flexibility. Under the current guidelines from the Federal Housing Finance Agency (FHFA), a former ADU converted into a condominium will be treated as a condominium development of fewer than 4 units, which face fewer requirements and are eligible for more funding opportunities. Additionally, during public outreach, stakeholders noted that the separate sale of ADUs creates naturally affordable homeownership opportunities, typically selling for 40-60% of the average single-family home price. In general, the separate sale of ADUs provides the opportunity for diverse price points, appealing to buyers of different income levels.

Stakeholders, including housing advocates and developers, have expressed support for this initiative, citing added flexibility in ADU development, opportunities for first-time home buyers, and equity benefits. However, concerns have been raised about the potential negative impacts of increased ADU development, such as traffic and infrastructure strain, particularly in areas lacking infrastructure services. Although the bill does not increase density, community members are concerned that it would further incentivize the construction of ADUs in areas of the County that lack access to water, sewer, and other essential infrastructure. Implementing AB 1033 would not impact where or how many ADUs can be developed. ADUs are currently allowed throughout the unincorporated area if they comply with water and sewer regulations outlined by the Department of Environmental Health and Quality (DEHQ). ADUs that are sold separately as condominiums would remain subject to these same regulations.

Additionally, to further promote homeownership, stakeholders recommended that the County's ordinance include a first right of offer to buyers intending to be owner-occupants. This would require sellers to wait a period of time (e.g., 60 days) before accepting an offer from real estate investor or until an owner-occupant buyer provides an offer. This would provide buyers intending to be owner-occupants an opportunity to purchase the unit before it can be added to an investment portfolio. Finally, stakeholders expressed concerns about the potential conflicts within a two-party HOA. Although these would be civil disputes and not involve the County directly, state law requires inclusion of dispute resolution mechanisms in the HOA Covenants, Conditions, and Restrictions (CC&Rs), and this requirement would apply under the County's local ordinance.

In response to the Board's direction, public outreach, and best practice reviews, staff has developed a recommendation for the Board's consideration to allow the separate sale of ADUs from the primary home in the unincorporated areas of the County. If directed by the Board, staff will use 0.5 existing FTE to perform this work. The estimated cost to complete the Zoning Ordinance Update to implement is \$450,000. No additional funding is needed to cover these costs, as they will be integrated into existing work plan efforts. Allowing the separate sale of ADUs may result in an influx of applications. If directed by the Board, the impacts on the department's processing of these potential applications will be discussed at the time of the program's adoption and may be included in a future Operational Plan Budget.

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Separate Sale of ADUs Recommendation	Purpose	Funding	Timeline
<p>1. <u>Create a Local Ordinance that Allows for the Separate Sale of ADUs with Specific Criteria Beyond AB 1033.</u> Develop a local ordinance to allow for the separate sale of ADUs. Staff will conduct public outreach to identify local criteria, which may include:</p> <ul style="list-style-type: none"> Requirements to ensure compliance with State law and effective dispute resolution clauses. Require first right of offer to buyers that are owner occupants to further promote homeownership. 	Reduce regulatory barriers	No additional funding needed	FY 26-27

Public Input and Outreach

As part of the outreach for the Streamlining Opportunities, staff held various meetings and events to gather feedback that informed the development of program opportunities. These efforts included focus group meetings, virtual public webinars, stakeholder meetings, and attending Community Planning and Sponsor Group (CPSG) meetings. Feedback received from these meetings is detailed in Attachment C.

In the focus group meetings, staff facilitated discussions on initial findings from the best practice review and solicited feedback on additional data sources and considerations for developing the County’s program. Participants included affordable housing developers, market-rate housing developers, and environmental and equity groups.

Individual meetings were held with several stakeholder groups, including the Land Development Technical Working Group, Environmental Coalition, Labor Unions, Building Industry Association, Farm Bureau, Wildlife Agencies, San Diego Quality of Life Coalition, American Association of Retired Persons (AARP), Del Mar Health/Senior Housing, Community HousingWorks, Serving Seniors, Bridge Housing, Wakeland, Age Well San Diego, Housing Land Trust of Sonoma County, Homeowner’s Associations, Casita Coalition, the San Diego Housing Federation, Persons with Disabilities Committee, and San Diego Chambers Transportation and Land Development Committee.

Three virtual public webinars were held in February, March, and June of 2024 to present the goals and objectives of each program and provide an overview of the draft opportunities. While the first two webinars focused on Small Lot Subdivision, Senior Housing and Assisted Living Facilities, and By-Right Program, the third session introduced AB 1033 and the separate sale of ADUs. Participants of the webinars provided feedback, emphasizing the need for flexible housing programs and affordable housing opportunities in areas with access to amenities like transit, healthcare, and retail.

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Staff attended eight CPSG meetings in Jamul, Spring Valley, San Dieguito, Crest/Dehesa/Granite Hills/Harbison, Valley Center, Rainbow, Fallbrook, and Twin Oaks Valley. These meetings aimed to gather feedback and listen to community concerns regarding the draft program opportunities. CPSG members and attendees highlighted the importance of implementing programs in locations with essential resources and community amenities while avoiding areas prone to wildfires or floods and regions lacking sufficient infrastructure. Concerns were also expressed about the separate sale of ADUs in areas with limited utilities and infrastructure to support housing development. Community members also supported universal design principles (Senior Housing Option #3) to facilitate aging in place and create affordable, accessible, and assisted living housing for people of all ages with disabilities. The community also emphasized the need to ensure compliance with objective standards and explore opportunities to rezone areas or repurpose old office buildings and hotels for affordable housing.

The outreach efforts conducted provided valuable feedback from a diverse range of stakeholders, members of the public, and community groups. The input received played a significant role in shaping the development of the program opportunities. This collaborative approach ensured that the proposed program opportunities prioritized addressing community needs, housing affordability, providing flexibility to reduce regulatory barriers, and offering incentives for new housing types in well-resourced areas, all while considering environmental and infrastructure limitations.

ENVIRONMENTAL STATEMENT

Accepting the presentation related to the Opportunities for Streamlining Affordable and Attainable Housing (Streamlining Opportunities) project and providing direction to staff to further explore the opportunities discussed in this Board letter is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines as it would have no potential for resulting in a physical change to the environment, directly or indirectly. Accepting these items will not commit the County to any definitive course of action and would have no potential for resulting in significant physical change or effect on the environment, directly or indirectly. Subsequent actions would be reviewed pursuant to CEQA and presented to the Board for consideration before implementation. Therefore, it can be seen with certainty that there is no possibility that today's action may have a significant effect on the environment and that the actions are exempt or not subject to CEQA.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed actions support all the Initiatives in the County of San Diego's 2023-2028 Strategic Plan. The project proposes draft ordinances that actively address climate change through innovative, proven policies (Sustainability Initiative), use policies to provide housing opportunities that meet the needs of the community (Equity Initiative), foster new ideas for implementing sustainable land use planning (Empower Initiative), provide programs and services that enhance community (Community Initiative), and incorporate equity and environmental justice to reduce disproportionality in terms of housing access (Justice Initiative).

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Respectfully submitted,



DAHVIA LYNCH
Deputy Chief Administrative Officer

ATTACHMENT(S)

Note: Due to the size of the attachments, the documents are available online through the Clerk of the Board's website at www.sandiegocounty.gov/content/sdc/cob/bosa.html.

Attachment A – Summary of Opportunities

Attachment B – Best Practices Research Summary

Attachment C – Outreach Summary

Attachment D – By-Right Development in Commercial and Mixed-use Zones

Attachment E – Action Sheet

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