



MEMORANDUM

DATE: 2/27/2018
TO: Planning Commission
FROM: Julia Capasso, Associate Planner, via John Swiecki, Community Development Director
SUBJECT: **Workshop: 2017 State Housing Legislative Package**

Background

In September 2017, Governor Jerry Brown signed several bills into law that impact how local governments process and act upon housing development projects. The purpose of tonight's workshop is to provide a brief overview of the most relevant bills pertaining to the City of Brisbane and local governments generally. These include:

- Amendments to the Housing Accountability Act;
- Senate Bill 35 (Wiener) creating a ministerial approval process for certain eligible projects;
- "No Net Loss" provisions for housing sites to accommodate Regional Housing Needs Allocation.

Summaries of these three legislative topics are provided below.

Housing Accountability Act

The Housing Accountability Act (HAA) has been in effect since 1982 but until the recent legislative session had not often been cited by cities or developers in housing development projects. The HAA controls how local governments process and act upon housing development project applications. Specifically, the HAA mandates that any housing development project (whether dedicated affordable or market-rate) that complies with objective local standards may only be denied if the decision-making body can make specific findings related to unmitigatable public health and safety impacts.

The amendments to the HAA impose additional requirements on local governments to notify project applicants of inconsistencies with applicable ordinances and planning policies and defines "objective standards."

SB 35- Ministerial Approval Process for Limited Project Types

SB 35 amended various sections of the Government Code to require a ministerial approval process (and exemption from CEQA) for housing development projects that meet very specific

criteria within jurisdictions that have not produced housing to satisfy their Regional Housing Needs Allocation (RHNA). Brisbane is subject to this law as its housing production (building permits issued) is less than its RHNA for the current cycle. The ministerial approval process contained in SB 35 is at the discretion of the developer. The developer is obligated to incorporate minimum affordability thresholds, prevailing wage, and other requirements to utilize this process. The eligibility criteria for an SB 35 ministerial project are very strict and detailed, and include requirements that the property not have been occupied by rental tenants in the past 10 years, that the property not be a hazardous waste site, and other specific restrictions.

“No Net Loss” of Housing Opportunity Sites

Cities are required to identify adequate sites (properties) within their jurisdiction that are zoned to accommodate housing development sufficient to meet their RHNA numbers (“housing opportunity sites”). The 2017 housing legislative package contained several amendments to the Housing Element and RHNA process, include a provision that the City maintain a rolling and constantly updated list of housing opportunity sites. This means that should a housing opportunity site identified in the Housing Element be developed at a lower yield than projected in the Housing Element, the City would have to amend the housing opportunity sites list to accommodate those “lost” units elsewhere in town. If the “lost” units couldn’t be accommodated by existing residential zoning, the City would be obligated to rezone additional properties to make up for the shortfall.