

2022 Legislative Update APA California Conference - Anaheim, California





Panelists



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Internal Bill Review and LRT

Legislative Positions and Letters

Meetings/Advocacy in the Capitol

Public Testimony

Partnerships with Other Organizations

eNews, Social Media and Webinars

Resources Online to Get Involved

Reminder: Vote for the next VP of Policy and Legislation by October 14

Big Changes in the Capitol

New Key Committee Chairs

- Assembly Appropriations Committee
 - Assemblymember Holden
- Assembly Housing and Community Development Committee
 - Assemblymember Wicks
- Senate Governance and Finance Committee
 - Senator Caballero

Midterms and Redistricting

- New legislative maps
- Termed out members/resignations
- Members running for congressional seats

Public Participation

Remote testimony and meetings continued

2022 Legislative Themes

Impacts of the Pandemic

Housing/Homelessness

Implementation of New Housing Laws and Homelessness Programs – Accountability

Climate Change

Transportation/Infrastructure

Budget Surplus (AGAIN!)

2022-2023 State Budget "The California Blueprint"

The entire 2022-2023 Budget totals \$300.7 billion, relying on *a \$97.5 billion surplus*!

\$2.5 billion affordable housing package

- Affordable Housing and Sustainable Communities Program
- Infill Infrastructure Grant Program
- Multifamily Housing Program
- Housing Accelerator Program
- ADU financing
- Adaptive Reuse Projects
- New "California Dream for All" program to boost first-time homeownership

\$53.9 billion climate/infrastructure package

- Drought, extreme heat and water resilience
- Energy plan to invest in clean energy projects
- Wildfire protection
- Transit, freight, active transportation, high speed rail
- Climate adaptation

\$17 billion inflation relief package

 Tax refunds to millions of Californians through direct payments, assistance to pay rent and utility bills and support for small businesses and nonprofits.

HOUSING

BILLS THAT DIDN'T PASS

Two-Year Bills:

SB 15 (Portantino) Would have provided grants to local governments that rezoned idle big box commercial shopping centers for development of low/moderate income housing

ACA 1 (Aguiar-Curry) Would have reduced the threshold for voter approval of public financing for infrastructure, affordable housing and supportive housing

ACA 14 (Wicks) Would have provided an ongoing source of funding for 10 years for affordable housing and homeless projects

AB 500 (Ward) Would have required local governments in the coastal zone to amend local coastal plans provide streamlined permitting procedures for certain housing projects

AB 989 (Gabriel) Would have created a new Office of Housing Appeals within HCD to review affordable housing projects that are alleged to have been denied or subjected to conditions in violation of the HAA

Housing and Homelessness Bills
All Signed by the Governor

Housing in Commercial Zones

AB 2011 (WICKS) AFFORDABLE HOUSING AND ROAD JOBS ACT

Creates a ministerial, streamlined approval process for two types of projects:

- 100% affordable housing projects in commercial zones
- mixed-income housing projects along commercial corridors

Ministerial review exempt from CEQA

- Local government must identify any inconsistencies with qualifying criteria within 60 (≤150 homes) or 90 (>150 homes) days, otherwise development is deemed to comply with standards
- Approve within 90 (≤150 homes) or 180 (>150 homes)

SB 6 (CABALLERO) MIDDLE CLASS HOUSING ACT

Establishes housing as an allowable use on any parcel zoned for office or retail uses

No new ministerial approval process

 Projects can invoke HAA and SB 35 even if they don't comply with underlying zoning

Adopt of local ordinance is exempt from CEQA

Labor Standards

AB 2011 (WICKS) AFFORDABLE HOUSING AND ROAD JOBS ACT

Developer must pay laborers the general prevailing wage

Contractors developing 50 or more housing units must participate in an apprenticeship program or request dispatch of apprentices from a state-approved apprenticeship program, and make certain healthcare expenditures for construction craft employees

SB 6 (CABALLERO) MIDDLE CLASS HOUSING ACT

Developer must pay laborers the general prevailing wage

Contractors must employ a "skilled and trained workforce" unless only one prequalified contractor promises to use "skilled and train workforce" bid on the contract

Affordability Requirements

AB 2011 (WICKS) AFFORDABLE HOUSING AND ROAD JOBS ACT

100% lower-income rental or for-sale units with deed restriction for 55 years (rental) or 45 years (sale); OR

Mixed-income housing with at least:

- 8% very low income and 5% extremely low income or 15% lower income rental units; OR
- 30% moderate income or 15% low-income sale units
- Deed restriction for 55 years (rental) or 45 years (for-sale)

Complex interplay with local inclusionary standards

SB 6 (CABALLERO) MIDDLE CLASS HOUSING ACT

No new affordability requirements

Must comply with local inclusionary standards

If using SB 35, that law's affordability standards apply

Development Standards

AB 2011 100% AFFORDABLE

Located in zone where office, retail, or parking are principally permitted uses

In a City or unincorporated urban area/urban cluster

Not adjacent to site with more than 1/3 industrial use

No TCR/VHFH

Must complete Phase I and mitigate hazards

Must meet or exceed "Mullins density"

- Existing zoning standards OR
- Zoning standards from closest parcel that allows required residential density

SB 6 (CABALLERO) MIDDLE CLASS HOUSING ACT

Located in a zone where office, retail, or parking area a principally permitted use

Project site is 20 acres or less

Proposed project must be either 100% residential units OR a mixed-use project with at least 50% of square footage dedicated to residential space

In an urbanized area or cluster

Not adjacent to a site where more than 1/3 of the square footage is industrial use

Must meet or exceed "Mullins density"

- Existing zoning standards OR
- Zoning standards from closest parcel that allows required residential density

AB 2011 Mixed-Income Development Standards

Density

Metro Areas:

- •For sites of less than one acre in size, 30 units per acre.
- •For sites of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 40 units per acre.
- For sites of one acre in size or greater located on a commercial corridor of 100 feet in width or greater, 60 units per acre.
- Notwithstanding subparagraph (B), (C), or (D), for sites within one-half mile of a major transit stop, 80 units per acre.

Non-Metro Areas

- For sites of less than one acre in size, 20 units per acre.
- For sites of one acre in size or greater located on a commercial corridor of less than 100 feet in width, 30 units per acre.
- For sites of one acre in size or greater located on a commercial corridor of 100 feet in width or greater, 50 units per acre.
- Notwithstanding subparagraph (B), (C), or (D), for sites within one-half mile of a major transit stop, 70 units per acre.



For sites on a commercial corridor of less than 100 feet in width, 35 feet.

For sites on a commercial corridor of 100 feet in width or greater, 45 feet.

65 feet for sites that meet all of the following criteria:

- They are within one-half mile of a major transit stop.
- They are within a city with a population of greater than 100,000.
- They are not within a coastal zone, as defined in Division 20 (commencing with Section 30000) of the Public Resources Code



No front setback from commercial corridor

80% of frontage must be within 10 feet of property line; 60% within 10 feet along side streets

10 foot setback for properties adjacent to residential, with upper-story step-back requirements

Setbacks

AB 2234: Postentitlement Phase Permits

"Postentitlement phase permit"

- All **nondiscretionary permits and reviews filed after the entitlement process** has been complete **required** or issued by the local agency **to begin construction**
- Applies to development that is intended to be at least two-thirds residential
- Excludes discretionary and ministerial planning permits, entitlements, and other permits and reviews that are covered under Chapter 4.5 (commencing with Section 65920).

Examples, without limitation, include:

- Building permits, and all inter-departmental review required for the issuance of a building permit.
- Permits for minor or standard off-site improvements.
- Permits for demolition.
- Permits for minor or standard excavation and grading.

AB 2234: Postentitlement Phase Permits

New Shot-Clock Timeline:

→ Failure to meet these timeframes is "disapproval of a housing development project" and a violation of the Housing Accountability Act

- Within 15 business days
 - determine whether an application for a postentitlement phase permit is complete
 - provide written notice of this determination to the applicant
- Within 30 business days
 - For projects with 25 units or fewer, complete review and return either comments or an approval to the applicant
- Within 60 business days
 - For projects with more than 25 units, complete review and return either comments or an approval to the applicant

AB 2234: Postentitlement Phase Permits

Procedural and Informational Requirements – by January 1, 2024, local agencies must:

- Compile a list of information needed to approve or deny a postentitlement phase permit
- Post an example of a complete approved application and an example of a complete set of postentitlement phase permits for at least 5 types of housing development projects, including, but not limited to, accessory dwelling unit, duplex, multifamily, mixed use, and townhome
- Provide an option for postentitlement phase permits to be applied for, completed, and retrieved by the
 applicant on its internet website, and accept applications for postentitlement phase permits and any
 related documentation by electronic mail until that process has been established
- List on their internet website or provide by electronic mail upon request, as applicable, the current processing status of the applicant's permit

Density Bonus Bills

AB 682 (Bloom) Requires cities and counties to grant a density bonus when an applicant for a housing development of five or more units seeks and agrees to construct a shared housing building that will contain either the following:

- 10% of the units for lower income households
- 5% of the units for very low-income households
- Provides that the local government shall not require any minimum unit size requirements or minimum bedroom requirements
- Shared housing buildings may include other dwelling units that are not shared housing units and may include incidental commercial uses, provided that those commercial uses on the ground floor
- Defines "shared housing building" as a residential or mixed-use structure with five or more shared units and one or more common kitchens and dining areas designed for permanent residence of more than 30 days be its tenants. The kitchens and dining areas within the shared housing building shall be able to accommodate housing

AB 1551 (Santiago) Reinstates the commercial development/density bonus program for commercial properties until 2028

Density Bonus Bills

AB 2334 (Wicks) Allows a housing development project in 17 specified counties to receive added height and unlimited density if the project is located in an urbanized very low vehicle travel area, at least 80 percent of the units are restricted to lower income households, and no more than 20 percent are for moderate income households

 "Designated county" includes the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura

Potentially more impactful: new definition of "maximum allowable residential density"

- Expressly focuses on number of units allowed by the base density
- Default calculation is du/ac
- If no du/ac standard (e.g. form-based codes, FAR limits, etc.), applicant shall provide estimate of realistic development capacity based on applicable objective development standards; hold unit size and other assumptions constant to award bonus units

ADU Bills

AB 2221 (Quirk-Silva)

- Specifies the requirement for a permitting agency to act on an application means either to return the approved permit application or to return in writing a full set of comments to the applicant with a list of items that are deficient and a description of how the application can be remedied.
- Adds front setbacks to the list of local development standards that local governments cannot impose if they would preclude construction of an attached or detached ADU.

SB 897 (Wieckowski)

Increases height limit for detached ADUs to 18ft on a lot with an existing or proposed multifamily dwelling unit or within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor

For ADUs attached to the primary dwelling, a height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, is also allowed

Annual Progress Report Changes

AB 1743 (McKinnor) Requires local governments to include in its APR whether each housing development application is subject to a ministerial or discretionary approval process

AB 2094 (R. Rivas) Requires cities to include progress towards meeting their share of regional housing needs for extremely low-income households in their APR

AB 2653 (Santiago) Authorizes HCD to reject the housing element portion of an annual report if the report is not in substantial compliance with the law.

- Requires within 90 days of receipt, the local government shall make the requested corrections within 30 days
- Requires HCD to provide the reasons the report is inconsistent in writing
- HCD is required to notify the jurisdiction of any violations of this law and the Attorney General can bring an action to enforce it.

AB 2011 added itself to the APR Reporting Process

SB 197 – RHNA Rezoning Fix

SB 197 (Committee on Budget) Housing Trailer Bill that also included a statutory change to grant jurisdictions whose housing element deadline was in the 2021 calendar year more time to complete the required rezoning of sites if they were not able to obtain a certified Housing Element from HCD

- Grants a local government three years and 120 days from the statutory deadline for the adoption of its statutorily-required housing element to complete the required rezoning of sites to comply with that housing element if:
 - the statutory deadline for adoption of the 6th revision of the housing element was in the 2021 calendar year
 - the local government failed to adopt a housing element that HCD found to be in substantial compliance with specified requirements
 - the local government adopts its 6th revision of the housing element that the department finds to be in substantial compliance within one year of the applicable statutory deadline

Homelessness

AB 2339 (Bloom) Makes changes to housing element law with regard to where emergency shelters may be zoned, and amends mends the "no net loss" policy to factor in sites that the local government rezoned in the current planning period because they failed to rezone them in the prior planning period

SB 1338 (Umberg) Establishes the CARE Act, which must be implemented by Glenn, Orange, Riverside, San Diego, San Francisco, Stanislaus, and Tuolumne Counties by October 1, 2023, and the remaining counties by December 1, 2024

Supported by budget funding

Inclusion and Social Justice

BILLS THAT DIDN'T PASS

Two-Year Bills

AB 387/AB 2053 (Lee) Would have created the Social Housing Act which would focus public resources on housing creation

AB 1778 (Garcia C.) Would have prohibited any state funds from being used to fund or permit freeway widening projects in areas with high rates of pollution and poverty

AB 2419 (Bryan) Would have required a minimum of 40% of funds received by the state as part of the federal Infrastructure Investment and Jobs Act to be allocated to projects with direct benefits to disadvantaged communities and an additional 10% to be allocated for projects that provide benefits to low-income communities

SB 17 (Pan) Would have established the Racial Equity Commission (REC) within OPR to evaluate and recommend strategies for advancing racial equity across state agencies and departments and would have required the REC offer technical assistance to departments and local governments, engage in community outreach and publish annual reports on racial disparities in the state

CHAPTERED

SCA 2 (Allen) Would repeal Article 34, eliminating vote requirement to construct public lower income rental housing, if approved by voters

• This will appear on the ballot in 2024 and, if passed, would allow housing projects that are intended for households at certain income thresholds and that receive government funding or assistance to be developed, constructed, or acquired without a local referendum

Hazard Mitigation Bills

BILLS THAT DIDN'T PASS

Two-Year Bills

SB 12 (McGuire) Would have imposed certain fire hazard planning responsibilities on local governments, including updates to the General Plan and would have required cities and counties to make specified findings on fire standards prior to permitting development in VHFHSZs

New Bills

AB 2705 (Quirk-Silva) Would have required cities and counties to make specified findings on fire standards prior to permitting development in VHFHSZs

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AB 1445 (Levine) Adds the impacts of climate change as a factor that a regional council of governments (COGs) may consider in developing their methodology that allocates regional housing needs

SB 852 (Dodd) Allows cities and counties to create climate resilience districts and provides these new districts various financing powers

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SB 867 (Laird) Would have required a local government in the coastal zone or within the jurisdiction of San Francisco Bay Conservation and Development Commission to implement sea level rise planning and adaptation and prioritize funding for local government projects that meet the state's goal for approval of the required plans

SB 1078 (Allen) Would have required the Ocean Protection Council to develop the Sea Level Rise Revolving Loan Pilot Program for the purpose of providing low-interest loans to local jurisdictions to purchase identified vulnerable coastal properties located in certain communities and populations disproportionately affected by climate change

Coordinated Planning, Neighborhood Vitality and Healthy Communities

BILLS THAT DIDN'T PASS

New Bills

AB 2840 (Reyes) Would have required cities and counties within the Counties of Riverside and San Bernardino to impose setbacks of 1,000 feet from residences, schools, and other "sensitive receptors," or equivalently protective alternative measures

AB 2237 (Friedman) Would have conditioned state and local transportation funding on a project's consistency with the applicable Sustainable Communities Strategy (SCS) and state climate goals

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AB 2798 (Fong) Prohibits local agencies from denying an application for a temporary freight use project solely because a freight transportation development application is pending on that site

SB 1425 (Stern) Requires every city and county to review and update its open-space element by January 1, 2026, and requires the update to include plans and an action program that address the following:

• Access to open space for all residents in a manner that considers social, economic, and racial equity

Climate resilience and other cobenefits of open space

Rewilding opportunities

VETOED BY THE GOVERNOR

AB 2438 (Friedman) Would have required the alignment of certain transportation funding programs with the Climate Action Plan for Transportation Infrastructure (CAPTI) adopted in July 2021, and required additional public transparency procedures in the project selection process for various transportation programs

SB 932 – Circulation Element Update

SB 932 (Portantino) Requires the circulation element of a general plan to include specified contents related to bicycle plans, pedestrian plans, and traffic calming plans, and to implement those plans. Revisions of the circulation element made after January 1, 2025 must:

- Include policies that aim to eliminate fatal and serious injuries for all road users through a holistic view of the roadway system
- Develop bicycle plans, pedestrian plans, and traffic calming plans which:
 - Identify safety corridors and any land or facility that generates high concentrations of bicyclists or pedestrians.
 - Use evidence-based strategies to develop safety measures intended to eliminate traffic fatalities, with an emphasis on fatalities of bicyclists, pedestrians, and users of any other form of micromobility device
 - Set goals for initiation and completion of all actions identified in the plans within 25 years of the date of adoption of the circulation element

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Infrastructure, Services, and Fees

BILLS THAT DIDN'T PASS

Two-Year Bills

AB 1401 (Friedman) Would have prohibited certain public agencies from imposing or enforcing a minimum parking requirement on developments near public transit, as specified

New Bills

AB 2063 (Berman) Would have prohibited a city or county from charging affordable housing impact fees on a housing development's density bonus units

AB 2186 (Grayson) Would have created the Housing Cost Reduction Incentive Program to reimburse local agencies for impact fee reductions and deferrals provided to qualified housing developments

SB 1067 (Portantino) Would have prohibited a city or county from imposing or enforcing minimum parking requirements on housing development projects located within one-half mile of a major transit stop, except as specified

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AB 2160 (Bennett) Authorizes a city or county to waive or reduce a CDP fee for a public access or habitat restoration project at the request of the applicant and, if the city or county denies the fee waiver or reduction request, authorizes the applicant to submit the CDP application directly to the Coastal Commission

SB 379 (Wiener) Requires most cities and counties to adopt an automated, online permitting system for solar energy systems and energy storage

AB 2097 – Parking Minimums

AB 2097 (Friedman) Prohibits a public agency from imposing a minimum automobile parking requirement, or enforcing a minimum automobile parking requirement, on residential, commercial, or other development if the development is located on a parcel that is within one-half mile of public transit

- However, a local government can impose or enforce minimum automobile parking requirements if the public agency makes written findings, within 30 days of the receipt of a completed application, that not imposing or enforcing minimum automobile parking requirements on the development would have a substantially negative impact on the public agency's ability to meet its share of specified housing needs or existing residential or commercial parking within 1/2 mile of the housing development. This exception does not apply if:
 - (1) at least 20% of the total number of housing units are for very low, low-, or moderate-income households, students, the elderly, or persons with disabilities;
 - (2) the development contains fewer than 20 housing units; or
 - (3) the development is subject to parking reductions based on any other applicable law
- HCD is required to notify the jurisdiction of any violations of this law and the Attorney General can bring an action to enforce it.

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2022 CEQA Bills

BILLS THAT DIDN'T PASS

Two-Year Bills

SB 37 (Cortese) Would have updated the list of hazardous waste sites/ hazardous substances sites and prohibited a project from using the "common sense" exemption for a project at any site on the Cortese List, except for projects that meet specified conditions

SB 412 (Ochoa-Bogh) Would have expanded the definition of "emergency" to include a CEQA exemption for mitigating fire threats

AB 1001 (Garcia) Would have amended CEQA to require mitigation to compensate for adverse air or water quality impacts in a disadvantaged community, to mitigate those impacts directly in the affected community and, require all public agencies implementing CEQA to give consideration to the principles of environmental justice by ensuring the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins

AB 1154 (Patterson) Would have exempted egress route projects in subdivisions reviewed by the State Board of Forestry and Fire Protection (BOF) where the BOF recommends creation of secondary access to the subdivision

New Bills

AB 2656 (Ting) Would have specified that a local agency has disapproved a housing project in violation of the Housing Accountability Act if it fails to make a determination that a project is exempt from CEQA or fails to adopt, certify, or approve certain environmental documents under specified circumstances

SB 1410 (Caballero) Would have only permitted that a VMT metric be applied in transit priority areas when analyzing transportation impacts under CEQA and required that the criteria for determining significance of transportation impacts within transit priority areas only promote greenhouse gas reduction, removing the requirement that the criteria promote the development of multimodal transportation networks and diversity of land uses.

CEQA Bills

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SB 118 (Skinner) Provides that enrollment or changes in enrollment, by themselves, do not constitute a project for purposes of CEQA

SB 886 (Wiener) Exempts, until January 1, 2030, faculty and staff housing projects and student housing projects meeting specified requirements from CEQA

SB 922 (Wiener) Modifies and extend the statutory exemptions to CEQA for clean transportation projects, established by SB 288 (2021)

Governor's Climate Proposals

BILLS THAT DIDN'T PASS

AB 2133 (Quirk) Would have increased California's greenhouse gas emission reduction target from 40% below the 1990 level to 55% below that level.

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AB 1279 (Muratsuchi) Declares it policy of the state both to achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045, and achieve and maintain net negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide anthropogenic greenhouse gas emissions are reduced to at least 85% below the 1990 levels

SB 905 (Caballero) Requires the Air Resources Board to develop regulations for projects that capture, reuse and store carbon emissions

SB 1020 (Laird) Establishes interim targets to the statewide 100% clean energy policy and requires state agencies to accelerate their 100% clean energy policy goal by 10 years

SB 1137 (Gonzalez) Prohibits the Geologic Energy Management Division from approving any notice of intention within 3,200 feet of a sensitive receptor

Legislative Resources Online for APA California Members

List of current planning related bills moving in the Legislature

APA California position letters

APA California Legislative Platform

Advocacy guidance – Chapter and Section level

National Legislative Program



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2021-22 APA California Platform



The 2021-2022 Legislative Platform for APA California

Professional planners have a responsibility to comprehensively implement practical solutions to pressing issues that balance the needs of California's diverse population, environments and economies. Our pivotal role in the decision-making process at the local, regional and state levels provides unique insight to help shape the debate on planning-related issues. This effort requires planners in California – for land use, transportation and other infrastructure systems, environmental and human health, and economic vitality – to monitor shifts in statewide policy and identify planning solutions in the context of local, state and national trends.

To address the priority issues facing our state and set the standard for our profession, APA California adopts a Legislative Platform prior to the start of each California two-year legislative session titled "Plan California". The Platform outlines our positions on priority issues on behalf of the California planning community broadly. The Platform is designed to be flexible enough to address the unanticipated issues that inevitably arise during the legislative session. The Platform serves as the guiding document for the Chapter's lobbying efforts in Sacramento and for advocacy positions taken by the Chapter on legislative matters.

The Platform is also intended as the framework for local advocacy efforts by the Sections. While the Chapter does not take positions or advocate for or against local planning issues, this does not preclude individual Sections from getting involved in such issues consistent with the Platform. Collaboration between Sections on advocacy positions and sharing advocacy experiences is also encouraged.

On statewide issues where the Chapter has not taken a position, Section advocacy is permitted, provided that positions are consistent with this Platform. Before taking a position on state legislation, regulations or ballot initiatives, please contact the Chapter President, Vice President for Policy and Legislation, and Chapter Lobbyist to ensure Section advocacy plans are consistent with the Chapter positions.

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- Housing
- Inclusion and Social Justice
- Hazards and Hazard Mitigation
- Infrastructure, Services, and Fees
- **⇔**CEQA
- Healthy Communities
- Coordinated Planning