



## City Council

# Developers capitalize on Housing Element fiasco to force 3,968 undeniable units into the city's pipeline



by Emily Sawicki  
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Address	Market Rate Units	Affordable Units	# of Stories	Preliminary SB330 Application	Formal SB330 Application
1420-22 20th St	45	9	5	X	
1215 19th	0	34	6	X	X
1437 6th St	145	29	9	X	
601 Colorado	213	43	9	X	
1524 7th St	213	43	9	X	
1443 Lincoln Blvd	145	29	9	X	
3030 Nebraska (aka 3000 Nebraska Ave)	2000	400	15	X	
2901 Santa Monica Blvd	222	45	12	X	
1425 5th St (aka 1435 5th St)	360	72	10	X	
1557 7th (aka 707 Colorado)	215	43	9	X	
1238 7th St	70	14	10	X	
1925 Broadway	340	68	11	X	
<b>Total</b>	<b>3968</b>	<b>829</b>			

Get ready for Santa Monica's next development boom. Nearly 4,000 new housing units, including a 15-story residential building at Nebraska and Stanford, could be rubber stamped in Santa Monica after the City failed to produce a compliant Housing Element in 2021.

As of latest count, a 2,000-unit 15-story development is vested for 3030 Nebraska Avenue; a 222-unit 12-story development is vested for 2901 Santa Monica Boulevard; and an 11-story, 340-unit development is vested for 1925 Broadway. In total, 12 projects totaling 3,968 housing units have been submitted for approval since the City's local zoning ordinances were suspended due to its Housing Element (a document that describes how the city will meet State housing goals) falling out of compliance.

The news was announced during the Tuesday, Oct. 11, Santa Monica City Council meeting, where council members unanimously approved the final version of the 2021-29 Sixth Cycle Housing Element, one year after its initial version was submitted, and later rejected, by the California Department of Housing and Community Development (HCD).

That rejection resulted in a major penalty for Santa Monica: Because of a 2019 state law, the ability to approve or reject certain housing projects was temporarily taken out of local leaders' hands through what is known as a "builder's remedy" application process.

"A builder's remedy project does not need to comply with zoning or General Plan standards — it can be much larger than the City would otherwise permit," according to a memo City staff prepared for council members this month. "The City cannot deny a builder's remedy project solely on the basis that it does not comply with the zoning ordinance or General Plan." The only grounds for denial, according to the memo, would be if a project is proven to "have a specific, adverse impact upon the public health or safety."

HCD correspondence with the City suggests all housing projects submitted since the City failed to meet a February compliance deadline have earned automatic permit approval, so long as they met the standard for serving low-and moderate-income households. That means any housing project that committed at least 20% of its units as affordable to lower income households or 100% as affordable to moderate income households makes the cut.

"If the submittal occurs at a time when the jurisdiction does not have a compliant housing element, any potential benefits afforded to the applicant as a result of the jurisdiction's noncompliant status would remain throughout the entitlement process even if the jurisdiction subsequently achieves compliance during the entitlement process," according to a letter submitted to the City by HCD Proactive Housing Accountability Unit Chief Melinda Coy last month.

Since February, the door has been open for housing developers to submit projects without restrictions under SB 330, the Housing Crisis Act of 2019 that "prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record."

According to the Housing Crisis Act, such projects cannot be denied if they comply with zoning plans and criteria "that were in effect at the time the application was deemed to be complete." Because the Housing Element fell out of compliance, Santa Monica's zoning laws were suspended for more than six months of 2022, opening the door for a dozen (and counting) applications for new projects.

If and when the final revised Housing Element is approved — which seems certain, according to city staff — development rules will fall back under the purview of the City of Santa Monica. As of press time, the version was not yet formally approved, meaning, in the words of Councilmember Phil Brock, "anybody else can rush in" and submit a last-minute project for rubber stamp approval by the HCD.

All seven council members approved the final version of the Element, which upzones some commercial zones such as “commercial l boulevards north of the I-10 freeway (Wilshire, Santa Monica Boulevard, Broadway, Colorado, Olympic), Bergamot, and Downtown” with a goal of preserving lower density in more traditionally residential neighborhoods. The Housing Element must show the City has plans to allow for an additional nearly 9,000 new residential units to be constructed in the next decade, though due to HCD feedback city staff have amended that goal to 13,000 to ensure compliance in the final version.

That final version came too little, too late to allow development-averse council members to weigh in on the dozen projects now vested in the pipeline.

“We’re already, to put it lightly, 12 projects in the hole,” Councilmember Gleam Davis said, later adding, “no matter what we do tonight.”

The final deadline for approval is Saturday. Should the revised version still fail to earn HCD approval, builder’s remedy projects could continue to be submitted until the City completes rezoning to meet its housing needs assessment. If constructed, the almost 5,000 new units would go a long way toward meeting Santa Monica’s state-mandated housing goals for this decade.

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*Editor’s note: Internal City of Santa Monica documents provided prior to the publishing of this story listed “market rate” as well as “affordable” units for each of the 12 applications. The City later clarified that it defines “market rate” to mean all units. Therefore, the original version of this story included incorrect data. The story has now been updated with correct information.*

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