



## Adirondack Park Agency

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Governor

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### CD Bill – Adirondack Park Agency talking points

**The “conservation design” bill sets suburban and ex-urban standards as the review criteria for the most remote private lands in the Adirondack Park. The bill would lessen – rather than strengthen – environmental protections in the Park.**

- Conservation design is a term generally used to refer to provisions added to zoning laws in suburban or ex-urban communities to require that a percentage of the land included in a subdivision proposal be set aside as non-developable.

#### **Existing APA Large-Scale Subdivision Review Standards**

- The Agency’s existing review standards are based on the resources of each site, and require analysis of potential impacts to water quality, aesthetics, nearby land uses, forest resources, open space resources, vegetative cover, wildlife habitats, wetlands, air quality, noise levels, and governmental services. The Agency always uses the most current science when reviewing proposals.
- Since 2013, Agency approvals of large-scale subdivisions have required more than 95% of the lands to remain undeveloped.

#### **Conservation Design Bill Standards**

- The bill would establish 40% to 75% of project sites as the baseline for undevelopable lands in new large subdivisions on the most rural private lands in the Park.
- No version of the bill mandates “clustering.” However, the intent of the bill appears to be to encourage or require that subdivisions of the most remote lands in the Park result in suburban-style clustered developments.<sup>1</sup>

#### **Analysis**

- Setting a baseline undevelopable percentage lower than 95% would encourage development to that baseline
- APA would be hamstrung against conditioning the developable lands because, under the bill, they inherently do not include “the important ecological areas of the property” or “protect the ecology and open space of the Park.”

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<sup>1</sup> Note that clustered subdivisions may be subject to greater infrastructure requirements by the Department of Health and other agencies, such as the construction of community wastewater systems. This level of infrastructure construction may create additional environmental and other impacts, and sets a precedent for further development in the area.



**Adirondack  
Park Agency**

# **APA Subdivision Permitting and the Conservation Design Bill**

**August 4, 2021**

# Background – APA Subdivision Permitting

# APA Act – Subdivision Permitting

The APA must determine that a project meets five criteria before issuing a permit:

*#5: The proposal must not create an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational, or open space resources of the Park*

- Must consider “development considerations”
  - 37 criteria related to potential impacts to water, land, air, noise, critical resource areas, wildlife, aesthetics, historic factors, natural site factors, etc.



# APA Act – Subdivision Permitting

Every proposal is analyzed for...

- Visual and open space impacts
- Wildlife impacts, including habitat fragmentation
- Wetland impacts
- Forest management / agricultural uses
- Invasive species management
- Soils, slopes, water quality impacts
- Stormwater management
- Wastewater treatment
- Traffic, parking, governmental services.....



# Subdivision Resource Analysis

Specialist teams comprised of:

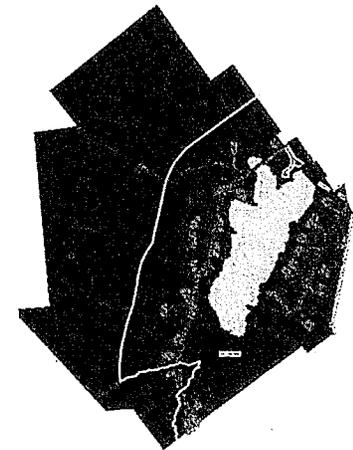
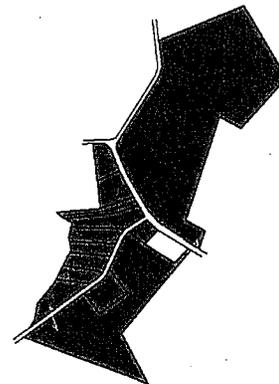
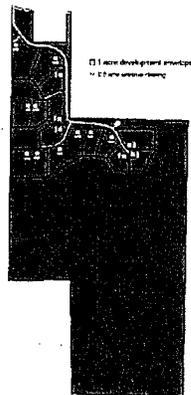
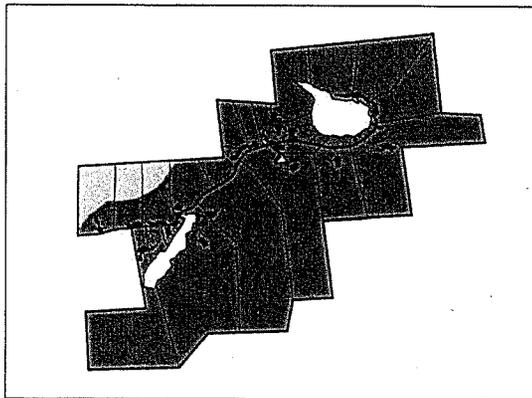
- Wetland Biologists
- Wildlife Biologists
- Soils Scientists
- Forest Management Specialists
- Freshwater Analysts
- Engineers
- Visual analysis experts



# APA Large Subdivision Permits 2013 - present

Four permits – 2,896± total acres

- 79 new dwellings
- 136± acres authorized for development (<5%)
- Permit required for further development on 2,760 ± acres (95+%)
  - No additional principal buildings allowed in Resource Management
- Vegetative cutting restricted on 2,760 ± acres (95+%)



# Background – Conservation Design

# Conservation Design – Background

“Conservation subdivision design” was created as an improvement over conventional zoning laws that only restricted development on wetlands, steep slopes, floodplains, and stormwater management facilities.

- Conventional Residential Developments\*
  - “All the land is divided into houselots and streets, with the only open space typically being undevelopable wetlands, steep slopes, floodplains, and stormwater management areas.”
  - “All the land has been paved over, built upon, or converted into lawns or backyards.”
- Alternative: Conservation Subdivision Design\*
  - Residential developments where “half or more of the buildable land area is designated as undivided, permanent open space.”

\* Arendt, Randall G. (1996). Conservation Design for Subdivisions. Washington, DC: Island Press



# Conservation Design Example

70-acre site, 35 dwelling lots

Conventional subdivision:

- All developed except wetland and stream

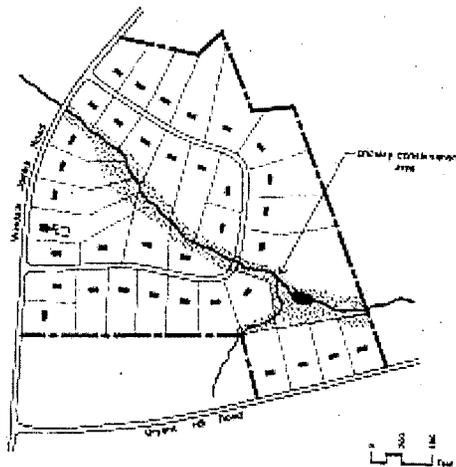


Figure 7A-2. Site B: Yield Plan

Conservation design:

- 33 acres developed
- 37 acres open space

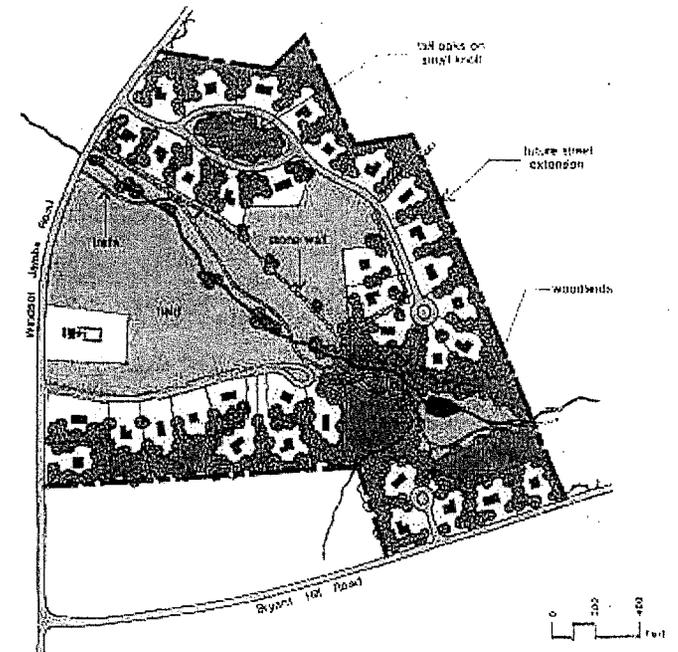


Figure 7B-9. Site B: Drawing to the Lot Lines

\* Arendt, Randall G. (1996). Conservation Design for Subdivisions. Washington, DC: Island Press

# Background – Conservation Design Bill

# Conservation Design Bill

## Resource Management

**75%** of project sites must be set aside as non-developable

## Rural Use

**55%** of project sites must be set aside as non-developable

## Low Intensity Use

**40%** of project sites must be set aside as non-developable

- The non-developable “open space” percentage must:
  - allow for forestry, agricultural, recreational uses, and
  - “to the greatest extent possible,” be located outside of all residential lots, contain “the important ecological areas of the property,” and be “designed to protect the ecology and open space of the Park.”

# Conservation Design Bill

- Requires an ecological site analysis for every proposal that identifies the following throughout every project site:
  - All “terrestrial and aquatic wildlife inhabiting, breeding on, migrating across, traversing or otherwise using” the site;
  - corridors “providing means by which wildlife may travel to adjacent or contiguous areas providing habitat, breeding, or spawning areas or meeting other needs;” and
  - other “important ecological and sensitive areas.”



# Conservation Design Bill

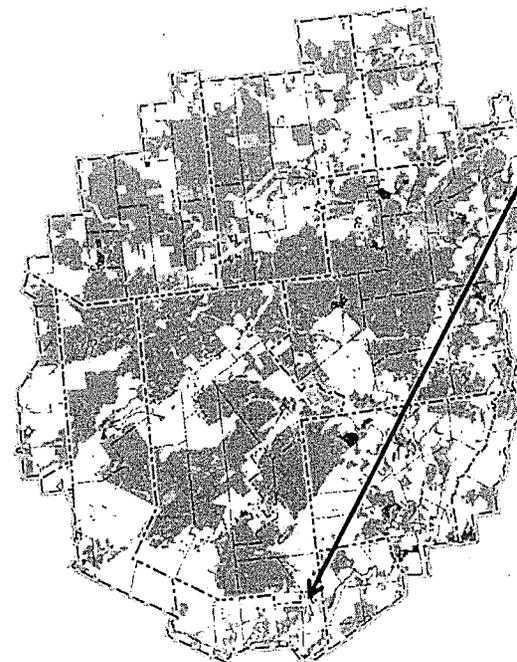
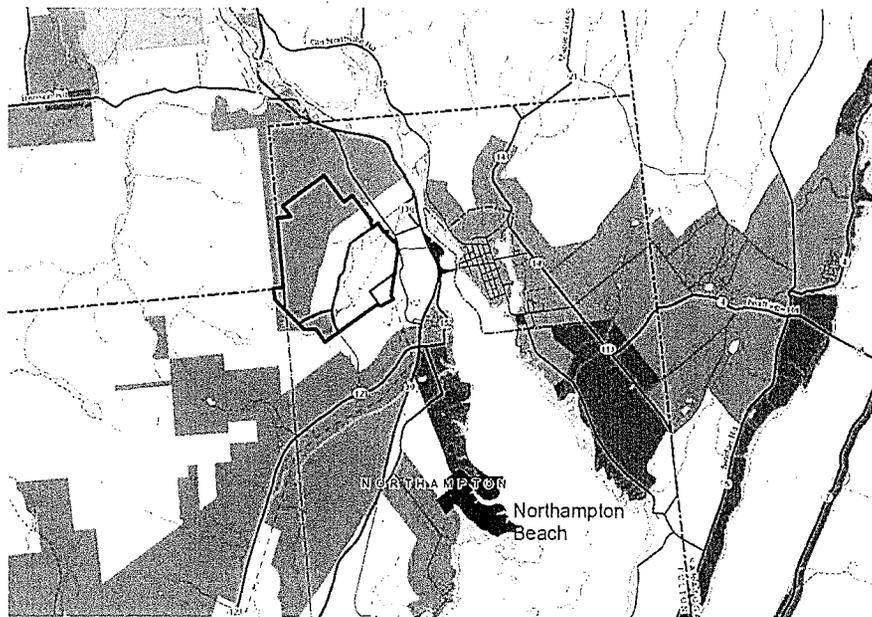
- Provides for “economic hardship” variances
- Provides for density bonuses

# APA Subdivision Permitting and the Conservation Design Bill

# Most Recent APA Large Subdivision

2021: P2018-123, Woodward Lake

- 1070± acres (480 in RU; 590 in RM)
- 32 new dwellings authorized
  - 30 in Rural Use
  - 2 in Resource Management



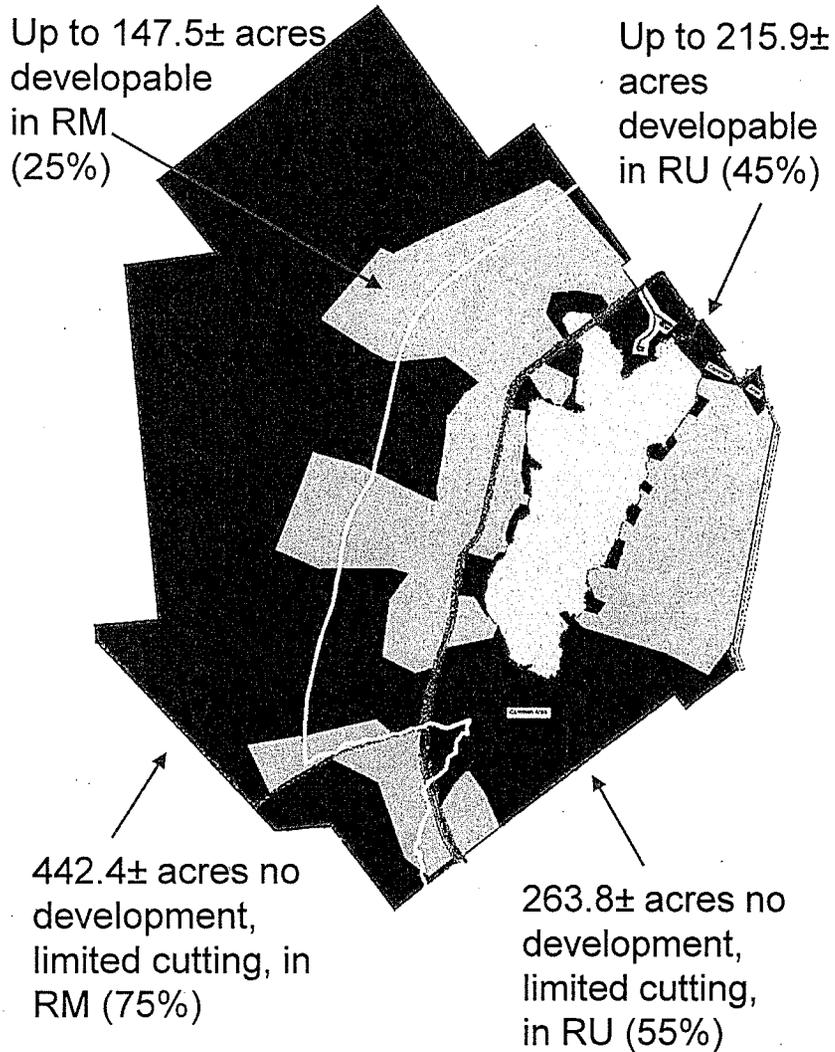
## Project Location

Towns of  
Northampton and  
Mayfield

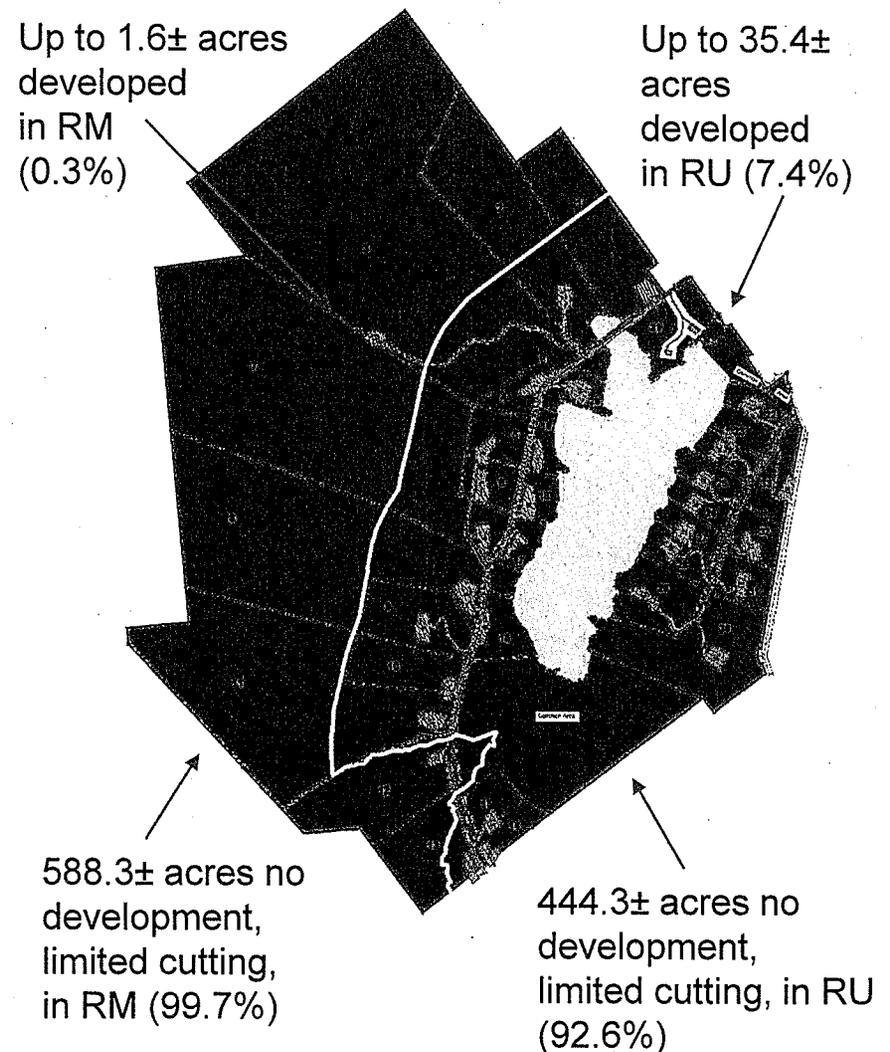
Fulton County

# Most Recent APA Large Subdivision

## CD Bill Standards:



## APA Requirements:



\*Non-developable lands commonly owned

\*Non-developable lands in multiple ownerships

# Most Recent APA Large Subdivision

P2018-123 most concerning area of development:

- 72 acres (in yellow)
- 4 dwellings
- 5.3 acres developed

Conservation Design:

- 70 acres
- 35 dwellings
- 33 acres developed

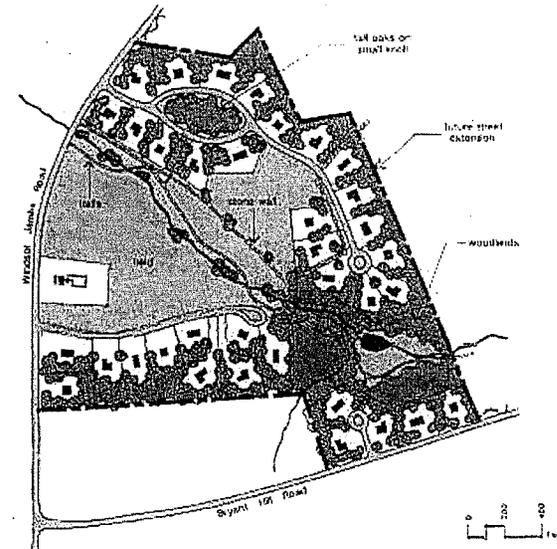
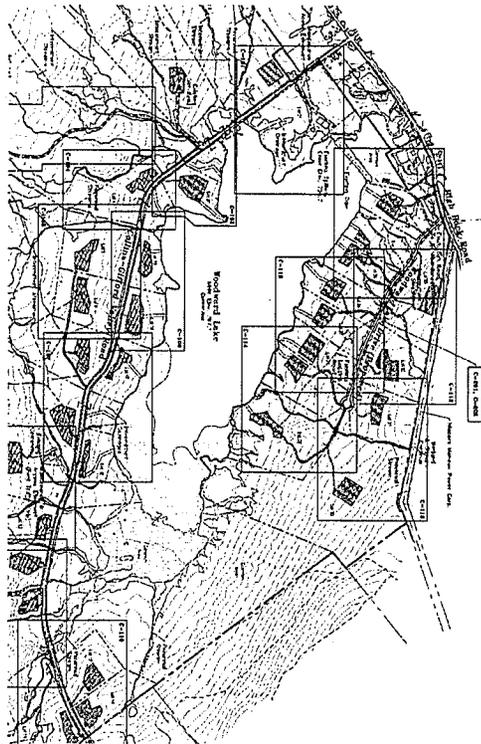


Figure 7B-9. Site B. Drawing to the Lot Lines

## Analysis – APA and the CD Bill

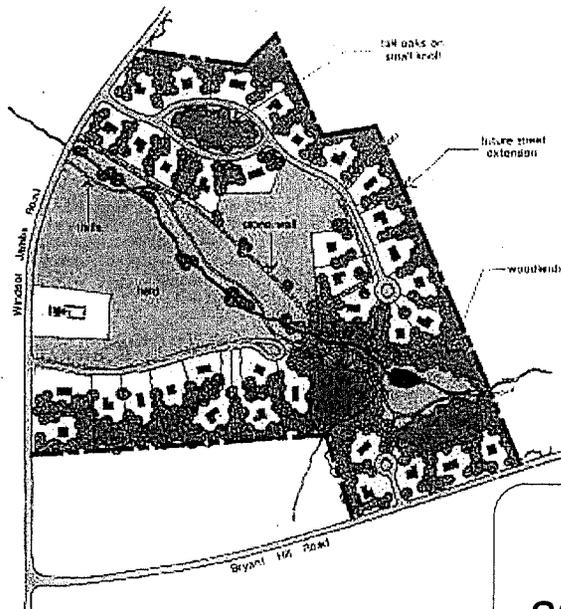
- Setting 40-75% of project sites as non-developable in the law:
  - *Agency currently requires no development on 95+% of large subdivision project sites*
  - *95% cannot be codified in law*
  - *Setting a percentage lower than 95% would only encourage development to that lower number*
    - *APA would be hamstrung against conditions on the developable lands because, under the bill, they inherently do not include “the important ecological areas of the property” or “protect the ecology and open space of the Park.”*

## Analysis – APA and the CD Bill

- Requiring the undevelopable percentage to be held “to the greatest extent possible” under non-residential ownership:
  - *If the taxes aren’t paid, the land reverts to county auction*
    - *Reduces the incentive for the owner(s) to maintain it*
    - *HOA’s often fail over time*
  - *Enforcement is far easier with individual landowners rather than HOAs, LLCs, etc.*

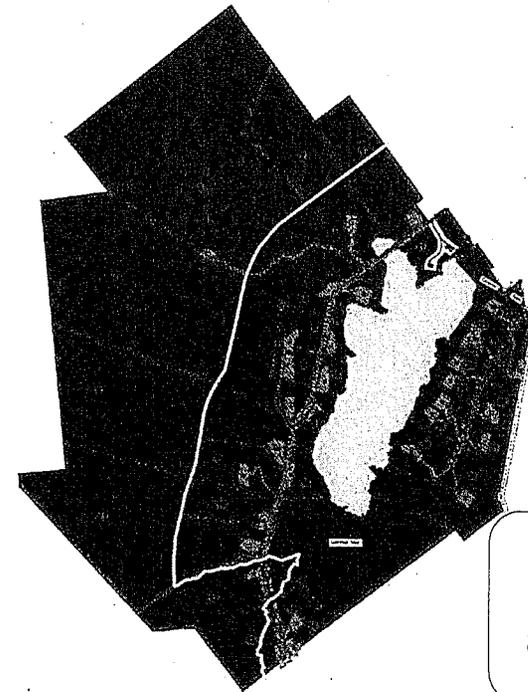
# Analysis – APA and the CD Bill

- Requiring a project-site-wide ecological analysis:
  - *Impossible and unnecessary to identify every animal that may use and every corridor by which wildlife may travel on sites of hundreds or thousands of acres*



70  
acres

Figure 7B-9, Site B, Drawing to the Lot Lines



1,070  
acres

## Analysis – APA and the CD Bill

- Providing for “economic hardship” variances:
  - *Economic hardships to developers: 1) cost of ecological survey; 2) lower return from sale of smaller lots to allow for larger “percentage” lot*
  - *Economic benefit to developers: allows far more development / fewer restrictions on residential lots than existing law*
  - *Agency has long since stopped seeking to review individual landowners’ financial status, and instead treats all applicants the same*

# Analysis – APA and the CD Bill

- Providing for density bonuses:
  - *Bill already allows far more development on project sites than existing law; density bonuses would only add more*

# Existing APA Act – Subdivision Permitting

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*\*\* We can always improve how this is done, as more scientific studies are published and more information and data is learned \*\**