

5. Constraints to Housing Development

5.1 INTRODUCTION

State law requires that the Housing Element include an evaluation of potential constraints to housing production and conservation. Constraints are broadly characterized as being “governmental” and “non-governmental.” Governmental constraints include land use controls, building codes, site improvement requirements, developer fees, and policies or procedures which make it difficult or expensive to build housing in the city. Non-governmental constraints are associated with factors such as the cost of land, the adequacy of infrastructure, the availability of credit and financing, and community views on development.

5.2 GOVERNMENTAL CONSTRAINTS

5.2.1 General Plan

Orinda’s General Plan was adopted in 1987, two years after the City’s incorporation. The intent of the General Plan is to express the City’s values and goals for future development.

The plan consists of two volumes, including plan policies (Volume 1) and a Technical Supplement and EIR (Volume 2). Volume 1 is organized in four sections. The Land Use and Circulation section includes policies for the city as a whole, as well as specific policy direction for Downtown Orinda and Gateway Valley (also known as Wilder). It also addresses open space, parks, schools, utilities, and transportation. The Housing section corresponds to the Housing Element of the General Plan. The Environmental Resources Management section meets the state mandate for conservation, safety, and noise elements. The Growth Management section meets the Contra Costa County mandate established by voter-approved Measures C and J.

The General Plan has been amended several times since 1987, primarily in response to development approvals and land use policy changes. Given the city’s built-out character, most of the goals and policies in the existing General Plan continue to represent the City’s position on growth and development issues.

The overall goals of the General Plan are to preserve the high quality of Orinda’s residential neighborhoods, enhance the “village” character of Downtown, and preserve the open spaces and natural resources in and around the city. The plan balances housing needs with infrastructure capacity and environmental planning considerations. The General Plan does not envision major changes in the character of Orinda, nor does it anticipate any significant growth in the city’s employment base.

The plan includes a Land Use Map that identifies the types of uses and densities/intensities of use permitted within the Orinda Planning Area. The map includes three residential categories, two downtown categories, a public/semi-public category, a parks/recreation category, an open space category, and a utilities category. A separate category has been created for the Gateway Valley Specific Plan area.

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The three residential categories allow single-family very low density (5–10 acres per unit), single-family low density (1–2 units per acre), and multi-family (6–10 units per acre) uses. The multi-family category allows densities greater than 10 units per acre for senior housing, provided the impacts are comparable to non-age-restricted units developed at 10 units per acre. The two downtown categories include one for professional offices and another which is retail-focused.

From 2007 to 2009, the City convened a Task Force to evaluate possible changes to streamline the development review process and make it more user-friendly. Thirty-two recommendations pertaining to residential development were drafted and 29 have been implemented.

5.2.2 Zoning

The primary tool for implementing the General Plan is the City's Zoning Ordinance (Title 17 of the Orinda Municipal Code). The ordinance considers the categories and designations on the General Plan Land Use Map, as well as General Plan policies to conserve neighborhood character, manage traffic and service impacts, and protect environmental quality.

Residential Zones

The Zoning Ordinance includes residential districts that roughly parallel General Plan categories, although there are a larger number of zoning districts. There are nine residential zones, as follows:

- *Residential Very Low Density – Estates (RVL-E): minimum net lot size of 10 acres*
- *Residential Very Low Density (RVL): minimum net lot size of 5 acres*
- *Residential Low Density (RL)*
 - *RL-40: minimum net lot size of 40,000 square feet*
 - *RL-20: minimum net lot size of 20,000 square feet*
 - *RL-15: minimum net lot size of 15,000 square feet*
 - *RL-12: minimum net lot size of 12,000 square feet*
 - *RL-10: minimum net lot size of 10,000 square feet*
 - *RL-6: minimum net lot size of 6,000 square feet*
- *Residential Medium Density (RM): no greater than 10 units per acre*

A summary of the development standards for RL-40, RL-15, RL-10, and RM is presented in Table 5.1. The table compares standards in Orinda with those in nearby cities, including Lafayette, Moraga, and Piedmont. The standards in Orinda are comparable to those in these nearby communities. Density limits in Orinda's very low, low, and medium density residential districts are comparable to those in neighboring cities. The setback standards and height limits are not excessive and do not constrain residential development.

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Floor Area and Slope Density Standards

Orinda's Zoning Ordinance includes limits on house size, using a sliding scale that correlates allowable floor area to lot area. One of the stated purposes of these limits is to "accommodate housing needs and preserve and enhance diversity of housing" in the community (Orinda Municipal Code, 17.6.1.E).

For lots smaller than 20,000 square feet, the Zoning Ordinance indicates the maximum floor area that may be built on the property. Lots that are less than 5,200 square feet are limited to a maximum home area of 1,400 square feet. A sliding scale presented in tabular form in the Zoning Ordinance prescribes a different maximum for lots between 5,200 and 20,000 square feet using intervals of 200 square feet of lot area. For example, a 10,000-square-foot lot may have a home with up to 2,300 square feet, while a 15,000-square-foot lot may have a home with up to 3,150 square feet.

For lots larger than 20,000 square feet, floor area is limited to 20 percent of the parcel size. In addition, homes 7,000 square feet or larger are subject to a greater level of review. The Zoning Ordinance also includes definitions of floor area that exempt certain parts of the structure from the calculation. For example, floor area excludes up to 400 square feet of garage space. Improvements of space within the existing footprint of a home also are exempt.

The floor area standard has been an effective tool for preserving Orinda's supply of smaller and more affordable older homes, and maintaining the character of the city's neighborhoods. The standard has not constrained housing improvement or conservation and provides an incentive to conserve existing homes rather than removing them and replacing them with much larger and more expensive homes.

In 2010, the City amended its permitting process to allow exceptions to the floor area standards through the Design Review process. This was a recommendation of the Task Force intended to relax the floor area ratio caps where adjacent neighbors would be minimally impacted by increases in floor area.

The City also has adopted a slope-density formula that applies to the creation of new lots. The formula prescribes the maximum size of a new parcel based on the degree of slope on the site. Again, a sliding scale is used to determine allowable parcel size. For example, the minimum lot size on a 20 percent slope is 25,623 square feet (versus 20,000 square feet on a slope of less than 15 percent). The slope-density formula provides important environmental and ecological benefits. Although it discourages lot splits and minor subdivisions on steep slopes in single-family zones, such development would be unlikely to consist of affordable housing.

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Table 5.1: Comparison of Development Standards						
City	Max. Density (units per acre)	Yard Setbacks (feet)			Off-Street Parking (spaces per unit)	Max. Height (feet)
		Front	Side	Rear		
RL-40 (40,000 SF lot)						
Orinda	1	25	15	15	4 ⁽¹⁾	27
Comparable zones in nearby cities						
Lafayette	1	25	20	15	2	35
Moraga	1 ⁽²⁾	25	20	20	2 (covered) ⁽³⁾	35 ⁽⁴⁾
Piedmont	2	20	4	20	3 (covered)	35
RL-15 (15,000 SF lot)						
Orinda	3	20	10	10	4 ⁽¹⁾	27
Comparable zones in nearby cities						
Lafayette	2	20	10	15	2	35
Moraga	2	25	15	20	2 (covered)	35 ⁽⁴⁾
Piedmont	4	20	4	4	2 (covered)	35
RL-10 (10,000 SF lot)						
Orinda	4	20	10	10	4 ⁽¹⁾	27
Comparable zones in nearby cities						
Lafayette	6	20	5	15	2	35
Moraga	3	20	10	15	2 (covered)	35 ⁽⁴⁾
Piedmont	4	20	4	4	2 (covered)	35
RM						
Orinda	10	15	10	10	4 ⁽¹⁾	27
Comparable zones in nearby cities						
Lafayette	17	20	10	15	2	35
Moraga	6	25	20 ⁽⁵⁾	20 ⁽⁵⁾	2 (covered)	35 or 2 stories (whichever is less)
Piedmont	N/A	---	---	---	---	---

Source: City of Orinda 2014; Town of Moraga Planning and Zoning Code, 2014; City of Piedmont Zoning Ordinance, 2014; City of Lafayette Zoning Regulations, 2014

Notes:

- (1) At least 2 enclosed and 2 unenclosed paved parking spaces for each new single-family residence
- (2) Attached secondary unit plus 1 required parking space.
- (3) One off-street covered non-tandem parking space for a dwelling 700 sf or less. If more than 4 bedrooms, add one parking space; one space for each 2 bedrooms in excess of 5.
- (4) Dwelling unit height measured from the point where the ground or bottom level appears above grade to the top of the living area (which varies with type of roof), as allowed by the Design Review authority.
- (5) Minimum 20-foot side yard or side yard length, but not less than the height of the building.

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Multi-Family Residential Standards

Section 17.4.32 of the Orinda Municipal Code includes the City's standards for multi-family development. A use permit is required for such development, unless occupancy is restricted to seniors and the project is in a Senior Housing Overlay District or the High Density Overlay District, in which case a project is permitted by right. Multi-family development is also subject to an open space standard of 150 square feet of private open space per unit and 100 square feet of common open space per unit. Each unit is also required to have at least 30 square feet of enclosed storage space. Building heights are limited to 25 feet.

The City created a Senior Housing Overlay District to incentivize the production of multi-family housing for seniors. Senior housing may be built up to a density of 38 units per acre. Building heights in such instances are based on the closest adjoining residential or downtown district, or may be established by the Planning Commission during the development review process. Building plane lines have been established to reduce the possibility that very large structures will cast shadows or have significant visual impacts on adjacent lower-density parcels.

In addition, the City established the High Density Overlay District (Section 17.4.34 of the Municipal Code) to facilitate multi-family housing at a density of 20 units per acre. The base density may be increased to up to 25 units per acre if affordable units are provided and the applicant can show a financial need for the increased density.

Section 17.4.31 of the Municipal Code includes incentives for affordable housing, namely the state-mandated density bonus. The code adopts state density bonus requirements (Government Code Section 65915) by reference and indicates application requirements, approval requirements, and housing incentive agreement requirements, consistent with state law. A density bonus provides up to 35 percent additional density on a property for projects that include affordable units as well as market-rate units. The density bonus may be used in tandem with the Senior Housing Overlay District or the High Density Overlay District. This provision has been used in the construction of the Monteverde Senior Apartments development by Eden Housing, with 67 units on 1.45 acres (approximately 48 units per acre) anticipated to be completed by December 2014.

New multi-family development in the city may occur through the Planned Development (PD) process. The PD process allows development standards to be established on a site-specific basis in response to the unique characteristics of the site under consideration, within the allowable density range established by the General Plan. On a larger site, individual subareas may exceed the multi-family standard of 10 units per acre, provided the overall density for the property is within the range of 6–10 units per acre. As noted above, substantially higher densities are permitted for senior housing.

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Downtown Standards

Section 17.8.1(k) of the Municipal Code establishes that one of the purposes of the Downtown Zoning District is to “provide for multifamily housing, including affordable housing, in downtown areas, consistent with the housing element of the general plan.” The Downtown Zone includes two sub-districts: a Downtown Commercial district and a Downtown Office district. The Downtown Commercial district explicitly allows medium-density residential units when they are located on the upper floor of a commercial building; a use permit is required in such instances. The Downtown Office district does not allow residential uses and is intended primarily for freestanding office buildings.

Development in the Downtown Commercial district is subject to a 50 percent lot coverage standard and a 35-foot height limit. Ten-foot setbacks apply on the front, side, and rear lot lines, and a minimum of 20 percent of the site must be landscaped. There is no limit on floor area ratio.

These development standards do not constrain the development of upper-story multi-family units. Despite the allowance for mixed use, very few projects have actually been built. One possible reason is that parcels in the Downtown area are relatively small, meaning any given parcel can only support a few second-story units if limited to the 10 units per acre standard.

Parking Standards

At least two enclosed and two unenclosed paved parking spaces outside the right-of-way are required for all new single-family homes. In addition, when a home that does not currently meet this standard is altered or expanded in such a way that increases the number of bedrooms, conforming parking must be provided. Given the large size of most Orinda lots and the relative age of the city’s housing stock, this requirement does not constrain or unduly add to the cost of housing production.

Most existing homes have conforming parking. For those that do not, the parking standards may actually provide an incentive to retain existing moderately priced homes. The requirement to provide an additional space when adding a bedroom may discourage such owners from expanding their homes, thereby maintaining housing diversity. Such homes tend to be more moderately priced than those with large garages, wide driveways, and similar amenities.

Parking standards are also prescribed for multi-family housing. These standards require different numbers of spaces depending on the number of bedrooms and the occupancy of the units. Studios require one covered space per unit, one-bedroom apartments require 1.5 covered spaces per unit, and units with two or more bedrooms require two covered spaces per unit. A guest parking requirement of 0.25 spaces per unit also applies. Reductions are permitted for senior housing, with 0.5 covered spaces per unit required and a guest requirement of 0.1 space per unit. Parking requirements are comparable to those in nearby cities and do not represent a development constraint.

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Findings for Single-Family and Multi-Family Development

Single-family housing is permitted by right in all residential zones, and no use permits are required. Design review is required for new homes, and the procedure and required findings are noted in a later section of this chapter.

Multi-family senior housing is allowed by right in areas covered by the Senior Housing Overlay. Multi-family housing is allowed by right in areas covered by the High Density Overlay. Outside such areas, multi-family housing requires a use permit in the RM zone and in the DC zone. The following findings must be made by the Planning Commission to issue the use permit:

- A. The use is consistent with the Orinda General Plan, any applicable specific plan, and the purposes of the zoning district in which it is located.
- B. The use is of benefit to Orinda residents.
- C. The use will be properly related to other adjacent land uses and to transportation and service facilities in the vicinity.
- D. Under all the circumstances and conditions of the particular case, the use will not have a material adverse effect on the health or safety of persons residing or working in the vicinity.
- E. The use will not contribute to a substantial increase in the amount of noise or traffic in the surrounding area.

Design review also is required for new multi-family housing, with special findings included for senior housing. This is discussed in a later section of this chapter.

In the course of reviewing the 2007–2014 Housing Element, HCD noted concerns regarding the use permit process for multi-family housing in the RM zone. HCD noted the following in its certification letter dated December 19, 2013:

“... the updated element must include a program to modify the condition use permit in the RM zone for multifamily housing. For your information, while particular constraints such as zoning at appropriate densities may be linked to the regional housing need, potential governmental constraints must not be limited to accommodating the regional housing need. In this case, the element must evaluate the CUP as a potential constraint beyond simply accommodating the regional housing need for lower income households. The element for the 5th cycle must include analysis and programs as appropriate to address the CUP as a constraint.”

All sites zoned RM are fully developed, with the exception of the Santa Maria Church site, which is covered by the High Density Overlay. Because no vacant land zoned for multifamily housing is subject to the current use permit requirement, it would not impede the City from meeting its 2014–2022 RHNA obligation or constrain possible development of multifamily housing on sites currently zoned RM. The City has worked with HCD to revise the current use permit requirements to meet the state objectives to provide development certainty as well as meet the objectives of the City to ensure quality design. As such, this Housing Element includes Action 4.A to revise the use permit process to ensure more predictable outcomes in the review of

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multi-family development applications in the RM zone. Revisions will include modifications to the decision-making criteria and the establishment of guidelines to define compatibility. The revisions will provide certainty for applicants while continuing to preserve.

Cumulative Impacts of Development Standards

State law requires the City to consider the impacts of development standards on the cost of housing, and further to consider the cumulative impacts of development standards on the cost and supply of housing. The primary development standard affecting housing cost is the lot size standard, since this standard effectively establishes a 6,000-square-foot minimum for single-family neighborhoods. Similarly, the primary standard affecting housing cost for multi-family units is the density limit of 10 units per acre. Building multi-family units at this density (4,356 square feet of lot area per unit) allows the dedication large areas as common open space and hence preserves the city's semi-rural character. This is mitigated to some extent as a potential constraint on the development of housing by allowances for high-density senior housing in the RM district and multi-family housing in the High Density Overlay District and by provisions for Planned Developments, which allow the transfer of density from one part of a site to another.

Beyond lot size, the setback and height limits for single-family and multi-family units result in an ample building envelope allowance and are not a constraint. Since lot sizes are relatively large, off-street parking standards also can be easily met on most properties. As noted earlier, the floor area ratio (FAR) limit for single-family lots is regarded as an opportunity, rather than a constraint, since it reduces the incidence of teardowns and helps preserve smaller homes. On vacant lots, the FAR limit is not a constraint since it can be waived through the Design Review process, which is mandatory for all new homes.

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5.2.3 Standards for Special Housing Types

Overview

This section of Chapter 5 evaluates standards for special housing types in Orinda, including second units, mobile and manufactured homes, emergency shelters, and transitional and supportive housing. Table 5.2 indicates the permitting requirements for different housing types in those uses where residential uses are permitted or conditionally permitted.

Table 5.2: Housing Types Permitted by Zoning District					
Residential Use	ZONE				
	RVL	RL	RM	D-C	P-I
Single-Family	P	P			
Multi-Family			UP		
Multi-Family Above Commercial				UP	
Second Unit	P	P			
Manufactured Home (subject to design review)	P	P			
Mobile Home (subject to design review)	P	P			
Residential Care, Limited (8 or fewer persons)	P	P	P		
Congregate Care			UP		
Emergency Shelter					P
<i>P=Permitted; UP= Use Permit Required</i>					

Source: City of Orinda 2013

Second Units

Second units (in-law apartments) are permitted by right on lots in single-family zones that meet certain criteria. These criteria include either a 20,000-square-foot minimum lot area or a 10,000–20,000-square-foot square lot area provided that there are fewer than 40 properties within a 500-foot radius of the site. On lots less than 20,000 square feet, second units must be at least 150 square feet, may not be more than 750 square feet, and may not have more than one bedroom. On lots between 20,000 and 40,000 square feet, a maximum size limit of 999 square feet applies, and on lots greater than 40,000 square feet, a 1,250–square-foot limit applies.¹ Second units on lots greater than 20,000 square feet may have two bedrooms.

To be eligible for a second unit, the primary residence must meet the City’s parking standard of two covered spaces and two uncovered (driveway) spaces. In addition, the second unit itself is required to have one space if it is a studio or one-bedroom unit and two spaces if it is a two-bedroom unit. The spaces must be on all-weather surfaces, but they do not have to be covered. The spaces must be accessible without blocking access to the primary unit’s spaces and must be at least 10 feet from the edge of the street (pavement). Vegetation screening is required if the

¹ These size limits exclude a 200-square-foot allowance for a garage or carport parking space in each case.

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parking space is within a required setback. The height and setback requirements applicable in each residential zone also apply.

The criteria listed above do not constrain the development of second units given the large number of lots that meet the eligibility criteria. Roughly 55 percent of the lots in Orinda are 20,000 square feet or more, and another 30 percent are between 10,000 and 20,000 square feet.

Mobile and Manufactured Housing

Under Section 17.4.30 of the Municipal Code, mobile homes and manufactured homes are permitted in all single-family residential zones in Orinda as long as they meet a set of criteria and standards that is consistent with state law. This includes compliance with single-family zone development standards (setbacks, height, parking, etc.), certification under the National Mobile Home Construction and Safety Standards Act, and structural installation on a permanent foundation, with treatment to present a finished appearance. Building, plumbing, and electrical permits are required for installation, along with plans including plot elevations and details on exterior materials and other specifications.

Emergency Shelters

There are presently no emergency shelters or transitional housing facilities in Orinda, however several churches participate in the Winter Nights Family Emergency Shelter Program coordinated through the Contra Costa Interfaith Coalition, which provides meals and emergency shelter to families and seniors from mid October to the end of April. The number of homeless residents is extremely small. The 2013 Contra Costa County Homeless Census found 1,350 unsheltered individuals in the county as a whole, none of which were in Orinda. The count was conducted in the winter, when seasonal demand is likely at its highest.

Homelessness is often the end result of multiple factors that converge in a person's life. The combination of loss of employment, inability to find a job because of the need for retraining, and the high housing costs in Contra Costa County lead to some individuals and families losing their housing. For others, the loss of housing is due to chronic health problems, physical disabilities, mental health disabilities, or drug and alcohol addictions along with an inability to access the services and long-term support needed to address these conditions. According to the Contra Costa Homeless Continuum of Care Plan 2001–2006, the three primary causes of homelessness are the lack of affordable housing, lack of access to support services, and low incomes.

In 2013, the City amended the Zoning Ordinance to make emergency shelters a permitted use in the Public/Semi-Public (PS) zoning district. Because of the high cost of commercial and residential land, it is unlikely that a shelter would locate on land in the commercial or residential zones, making the PS zone the most feasible alternative.

The zoning amendment established the following criteria:

- Occupancy is limited to seven clients per night
- Sites must be located:
 - Within one-half mile of the Orinda BART station

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- More than 200 feet from the edge of pavement of State Route 24
- More than 300 feet from a general day care use
- One parking space must be provided for every three beds, plus one space per on-site management staff person

In addition, shelters are subject to specific requirements regarding a waiting and intake area, on-site management, and lighting.

The areas in the PS zone not subject to the limitations listed above total approximately 12.5 acres and are sufficient in size to meet the local demand for emergency shelter. These areas include the entire Orinda Civic Center complex (including City Hall, the Police Station, the Public Library, and the Community Building) and three churches, two of which sit on large parcels of land with undeveloped areas. The churches themselves operate programs to help residents in need and contain community rooms and other spaces that can be made suitable for shelter. The area is within a 10-minute walk of BART and in walking distance to retail and City services.

To the extent an emergency shelter is considered a “congregate care” facility, such uses are permitted with a use permit in the RM zone and the Downtown Office district. Congregate care is defined by the Zoning Ordinance as including 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. It excludes convalescent facilities, which are a separate use category.

Supportive/Transitional Housing

Senate Bill 2 (2007) required that local zoning regulations include definitions for supportive and transitional housing and allow these uses as residential uses, subject only to the same requirements as other uses of the same type in the same district. The City amended its Zoning Ordinance in 2013 in compliance with state law. A provision for transitional and supportive housing is established in Section 17.3.10 of the Municipal Code.

Persons with Disabilities

According to the US Census, as of 2000, approximately 10 percent (1,881) of Orinda’s residents had a disability or condition that affected their abilities to live independently in conventional residential settings. These individuals have mobility impairments, self-care limitations, or other conditions that may require special housing accommodations. Persons with mobility difficulties (such as those confined to wheelchairs) may require special accommodations or modifications to their homes to allow continued independent living, as well as special needs for access to transportation and employment. The City requires compliance with Title 24 of the California Code of Regulations (Title 24) and the federal Americans with Disabilities Act (ADA) to ensure new construction meets the needs of disabled persons.

Individuals with self-care limitations (which can include persons with mobility difficulties) may require residential environments that include in-home or on-site support services, ranging from congregate to convalescent care. Support services can include medical therapy, daily living assistance, congregate dining, and related services. Individuals with developmental disabilities and other physical and mental conditions that prevent them from functioning independently may

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require assisted care or group home environments. Individuals with disabilities may require financial assistance to meet their housing needs because a higher percentage are low income than the population at large and their housing needs are often more costly than conventional housing.

Some people with mobility and/ or self-care limitations are able to live with their families to assist in meeting housing and daily living needs. A segment of the disabled population, particularly low-income and retired individuals, may not have the financial capacity to pay for needed accommodations or modifications to their homes. In addition, even those able to pay for special housing accommodations may find them unavailable in the city. Although Title 24 requires public buildings to be accessible through architectural standards such as ramps, large doors, and restroom modifications to enable handicap access, not all existing housing units have these features.

As noted earlier in the Housing Element, Orinda Senior Village provides 15 dedicated units for persons with disabilities. Additionally, numerous organizations in Contra Costa County offer services to persons with disabilities including Adult Day Services Network of Contra Costa (Concord, Walnut Creek, Lafayette, Orinda, Martinez, and Pleasant Hill), Development Disabilities Council of Contra Costa County, Inc., a nonprofit in Orinda, and MAAP Services, Inc., providing for child development and development disabilities in Moraga and Orinda.

Consistent with state law, the City also allows residential care homes for persons with disabilities (eight or fewer residents). There are no additional zoning, building code, or permitting procedures other than those allowed by state law. The City also allows and encourages the retrofitting of homes to facilitate aging in place, including the installation of such features as grab bars and lower countertops. The Monteverde Senior Apartments development now under construction will include these features.

In addition, the City amended the Zoning Ordinance in 2013 to establish a reasonable accommodation provision to accommodate requests for exceptions for special structures such as access ramps or exterior lifts for persons with disabilities. This Housing Element also includes a policy endorsing the concept of universal design in the development of new housing.

Group Homes

The City of Orinda currently allows residential care group homes of eight or fewer persons by right in all residential zones. No use permit or other special permitting requirements apply in such instances. Design Review has not been used to deny or substantially modify a housing project for persons with physical or developmental disabilities to the point where it is no longer feasible. The City does not impose special occupancy permit requirements or business licenses for group homes or for retrofitting structures for group home use.

Family Housing

The Orinda Municipal Code defines “family” as one or more persons occupying a dwelling unit and living as a single housekeeping unit.

This is an inclusive definition and enables family housing to be constructed anywhere in the city where residential uses are permitted.

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Employee Housing

The City does not have any land designated for agricultural uses and is in compliance with Health and Safety Code 17021.5 and 17021.6.

5.2.4 Design Review

Orinda's Design Review program is intended to preserve and enhance the city's character, maintain property values, and protect public health and safety. It strives to encourage diverse architectural designs that are sensitive to local context, surrounding uses, and aesthetics. The City has established several different levels of Design Review depending on the size and scope of the project, the type of use, and the project's location.

Typical projects subject to design review include new single-family homes, additions larger than 1,000 square feet, and additions that create a second story above or below an existing residence. There are also a number of unique triggers for Design Review, including additions that result in homes larger than 7,000 square feet, additions on small or narrow lots, additions in the Ridgeline and Environmental Preservation Overlay District, and additions that exceed the maximum floor area permitted on the parcel.² There are also provisions that enable affected neighbors to request Design Review.

The City has established findings for approving Design Review applications. Prior to 2010, there were seven individual findings.

In 2010, the City Council implemented a recommendation of a Task Force to simplify these requirements. The Task Force reduced the number of findings from seven to four, making them more user-friendly and eliminating redundancies. The findings are now as follows:

- i. Siting and Neighborhood Context. The proposed development is designed and located on the site so that the building envelope is compatible, but not necessarily identical with its surroundings. It protects undeveloped ridgelines and hillsides, maintains the dominance of wooded and open ridges and hillsides, and preserves a significant or scenic vista.*
- ii. Design. The design elements are visually harmonious and in scale with the size of the structure while balancing environmental and solar considerations. If the proposed development is an addition or remodel of an existing structure, the existing construction and proposed construction are visually harmonious. Facades and exterior walls shall be designed to reduce the blocky or massive features of building surfaces and provide articulation.*
- iii. Privacy, views, light, and air. The proposed development does not substantially impair the existing views and access to light and air or substantially infringe on the privacy of neighbors, and balances the sensitivity of the design to its impact on neighboring properties and the applicant's ability to develop the property.*

2. In each of these examples, there are exceptions for small additions (the size thresholds vary). Design review would typically not be required if the addition took place within the footprint of an existing structure.

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iv. Landscaping. Primary landscaping elements complement the structure and environment as appropriate for the structure itself, the site, and neighborhood. Landscaping provides privacy and screens the proposed structure.

The findings above do not represent a development constraint. The first finding requires that the building is compatible with its surroundings and protects hillsides and ridgelines. This is a fundamental land use principle and ensures that new homes will protect the quality of life and the character of Orinda neighborhoods. The second finding primarily applies to additions and remodels and relates to the visual harmony and scale of building modifications. The third finding addresses public health and safety considerations such as access to light and air, along with basic issues regarding privacy and view obstruction. The final finding is simply that landscaping complements the structure and provides appropriate screening.

Based on the Task Force recommendations, the City no longer requires a separate finding for creek setbacks and has eliminated the requirement that landscaping dominate the site and that the structure blend into the streetscape.

Conditions may be imposed by the decision-making body (e.g., the Planning Director or the Planning Commission) through the Design Review process. Special findings must be made for very large homes (over 7,000 square feet), homes on very steep lots, and homes on narrow lots (less than 50 feet) and small lots (less than 5,000 square feet).

In addition, the City has adopted a separate set of standards for senior housing to reflect the desirability of this use. Among the considerations for senior housing is an orientation to pedestrians and an emphasis on breaking up the building mass so it appears less monolithic and blocky. Projects in the Downtown Commercial and Downtown Office zones are also evaluated to ensure they are consistent with Downtown design guidelines.

Another change approved in 2010 at the recommendation of the Task Force was to grant the Zoning Administrator the authority to make decisions that previously required Planning Commission approval. Recently implemented Task Force recommendations also made it easier to receive project approval where there was no neighbor opposition or no impact on neighboring properties. In addition, Design Review requirements were eliminated for some types of projects, and the threshold for Design Review was raised (e.g., relaxed) for others.

Most of the Task Force recommendations were included through ordinance revisions in 2010. This has effectively reduced Design Review as a potential constraint and has made it faster and easier to navigate the process.

5.2.5 Building Code Requirements

The City's building codes are based upon the most recent version of the California Building, Plumbing, Mechanical, and Electrical codes. These codes are considered to be the minimum necessary to assure the public's health, safety, and welfare. The City has adopted amendments to the codes for high fire hazard areas, including sprinkler requirements for homes over 3,600 square feet as well as fire-safe roofing and ventilation requirements. High fire hazard areas tend to contain remote single-family lots on winding hillside streets and are not likely locations for affordable housing. In the central part of the city, where commercially and residentially zoned

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land is located, there are no applicable amendments to the state codes. Thus, code regulations do not unnecessarily add to housing costs.

In addition, the City utilizes its code enforcement powers in a manner that does not constrain housing development or improvement. Code enforcement is primarily carried out in response to resident complaints or observation of non-permitted structures. The City does not have any unique or proactive code enforcement programs that could be construed as creating housing constraints.

5.2.6 Site Improvement Requirements

Subdivision-level improvement requirements are defined in the City's Municipal Code. These requirements stipulate standards for streets, sidewalks, water and sewer, drainage, curbs and gutters, utility easements, and landscaping. Such improvements may be considered as a housing cost constraint if they are more costly than what is minimally required to meet health and safety standards or involve requirements that are atypical or exceptionally high relative to other jurisdictions in the vicinity.

In Orinda, the city's infrastructure, including streets, storm drains, water lines, sewer pipes, and dry utilities, is already in place, greatly reducing potential infrastructure impacts on housing costs. The 245-lot Gateway Valley (Wilder) development required extensions of existing roadways, installation of new roadways, utilities, landscaping, and signage. Because this infrastructure was largely privately funded, the cost of construction is likely to be passed on to future homeowners in the area through an assessment district. This makes it less feasible to construct affordable housing in this area. As a result, in that case, the developers of Gateway Valley contributed funds to construct affordable housing in the Orinda Village area, on a site that is much closer to transit and services where infrastructure was already in place.

Street standards in Orinda are listed in Section 16.52.140 of the Municipal Code. The standards require that private roads be at least 16 feet wide (curb to curb) or 25 feet wide (for streets without curbs). Public roads must be at least 32 feet wide (curb to curb) or 36 feet wide (for streets without curbs). Minor streets have a grade (slope) limit of 20 percent. While Orinda's street standards are not excessive and present no constraints to development, the City's subdivision regulations do allow narrower streets to ensure consistency with the General Plan. Since the General Plan calls for retaining rural character, the City is able to approve public streets that are less than 32 feet wide. The city's higher-density housing opportunities are located in and around the Downtown area, where the streets are already in place and would not need to be widened or reconstructed to accommodate new development.

The City's subdivision regulations also include requirements for water, sewer, and drainage facilities. These facilities are already in place on the sites listed in Chapter 4 of the Housing Element and would not need to be expanded or reconstructed in the event these sites were developed with housing. The El Toyonal area in the western Orinda Hills has been under a septic tank moratorium since 1970. Owners of vacant lots in this area must extend sewer lines to their lots in order to build new homes. In addition, groups of homeowners in this area may form assessment districts to extend sewer service to existing homes. The El Toyonal moratorium has been in place for over 40 years and applies to a relatively remote part of the city accessed by steep, winding roads. It is not a viable location for additional density, and the limitations on sewer service are not considered an affordable housing constraint.

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5.2.7 Development and Permit Fees

Development fees in Orinda include impact fees for schools, parks, drainage, and traffic. The City also collects planning application fees and plan check fees.

Fees specifically charged by the City at the time of development include (1) a per-residential-unit local transportation impact fee to contribute toward street improvement and maintenance costs; (2) drainage fees based on the square footage of impervious surface on-site; (3) an in-lieu fee for the acquisition and/or improvement of public parkland in those cases where land is not dedicated pursuant to the Quimby Act and where adequate private recreational facilities are not provided onsite; and (4) a subregional transportation fee administered by the Lamorinda Fee and Finance Authority.

In 2014, the local traffic fee is \$4,958 per single-family unit and \$3,084 per second unit or multiple-family unit. The regional traffic impact fee is \$1,332 for single-family units and \$840 for multi-family units. The drainage fees are \$1.27 per square foot of impervious surface area and are the same for single-family homes and multi-family units. The park dedication fees are \$12,782 per detached single-family unit, \$8,684 for single-family attached or townhomes, and \$8,919 per multi-family unit.

Charges assessed by other agencies include a school impact fee assessed by the Orinda Union School District in accordance with Assembly Bill (AB) 2926, and meter installation and hook-up fees charged by the East Bay Municipal Utilities District (EBMUD) and the Central Contra Costa Sanitary District (Central San) to defray the capital costs associated with providing water and sewer services. The school impact fees are currently \$3.36 per square foot for residential development and 54 cents per square foot for nonresidential development. A new 2,500-square-foot single-family home would have a school impact fee of almost \$8,400, while a typical multi-family unit of about 1,000 square feet would have a school impact fee of \$3,360.

EBMUD offers a Customer Assistance Program (CAP) for low-income households and emergency shelters based on income limits set by the agency. The program offers qualifying low-income households a fifty percent reduction of the standard bimonthly service charge and fifty percent of home water use, up to a maximum of 1,050 gallons per person per month.

All of the above development fees and charges affect the price of housing. On a cumulative basis, impact fees on a 2,500-square-foot single-family home (with an impervious footprint of 2,000 square feet) would be roughly \$30,012. Fees on a 10-unit apartment building (1,000-square-foot units, with an impervious footprint of 6,000 square feet) would be \$16,965 per unit. The above totals include the school impact fees and the city and regional impact fees.

The cost of building permits and plan checking would be added to these totals. Building permits are collected by Contra Costa County and are based on the value of the project. For example, a new home with a construction value of \$875,000 would be subject to a permit fee of \$4,937, while a residential addition with a construction value of \$100,000 would have a permit fee of \$982.75. Plan checking fees are 65 percent of the permit fee. Thus, the new home in the example above would have a plan checking fee of roughly \$3,200. Additional fees are collected for a Title 24 energy report (25 percent of permit fee); electrical, plumbing, and mechanical inspections (combined total of 40 percent of permit fee for all three); and an earthquake fee (\$10 per \$100,000 valuation). The addition of these charges brings the permitting fees to approximately

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\$11,500 for the home in the example above. EBMUD charges a water service installation fee of \$6,193 per meter for a ¾ inch lateral in paved conditions and a system capacity charge of \$35,610 for a ¾ inch meter, and Central San collects a fee of approximately \$9,000 per unit.

When added to the impact fees listed above, total planning, building, utility connection, and impact fees are in the range of \$92,000 per unit for a new single-family home. As a benchmark for comparison, the 2014 Draft Contra Costa County Housing Element indicated that permitting costs and impact fees ranged from \$48,215 to \$88,579 in the unincorporated portions of the county. Orinda falls near the upper end of this range, mainly due to the higher costs for water and sewer capacity fees in Orinda than surrounding areas.

A useful metric for evaluating planning and permitting fees is the percentage of total construction costs associated with these fees. Construction costs for single-family homes in Orinda are approximately \$300 per square foot, or roughly \$750,000 for a 2,500-square-foot home. Typical cost for a vacant lot is \$300,000 to \$500,000, bringing the total cost of building a new home to roughly \$1.2 million. Thus, the total permitting and impact fee costs of \$92,000 represent approximately 7.6 percent of the total cost of the home. This is a lower percentage than the amount reported by nearby communities, in part because the relative cost of land and construction in Orinda is higher than the county average.

For multi-family units, the building permit and plan checking fees are calculated on a schedule similar to that used for single-family homes. However, the construction cost per square foot is lower and the unit size is smaller, so total fees per unit are less. Building permits for the Monteverde Senior Apartments project now under construction indicate a construction cost of \$153 per square foot. Thus a 1,000–square-foot apartment would cost about \$153,000, or about \$200,000 once land costs are factored in. The building permit fee on such a unit would be \$1,274 and the plan checking fee would be \$828. Inspection, earthquake, and Title 24 fees would bring the total to \$3,012 per unit. Water connection fees would depend on the total number of units in the building ranging from roughly \$3,700 per unit upwards, while the water capacity fee would be \$12,220 and sewer fee would be approximately \$9,000 per unit.

The total for all fees for a multi-family unit (including impact fees) is approximately \$45,000. This represents about a 22.5 percent addition to the cost per unit, which is a higher relative amount than the cost per single-family home.

As noted above, Orinda’s fees are comparable to fees charged by adjoining jurisdictions. A July 2014 survey of fees charged in Orinda, Lafayette, Moraga, and Piedmont found that the City of Orinda’s fees are comparable to those charged by these cities (see Tables 5.3 and 5.4).

Development fees are typically incorporated into the sales price of a home or amortized through apartment rents in the case of multi-family rentals. However, development and permitting fees are not considered to be a constraint to the provision of affordable housing in Orinda. Furthermore, the City’s Fee Ordinance allows the City to waive the transportation, park, and drainage fees for affordable housing projects. The City does not collect school impact fees for senior housing development, and other projects which do not generate a student population.

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5.2.8 Local Processing and Permit Procedures

The permitting process for the construction of new residential units in Orinda is comparable to that of most cities in the area. New homes are subject to Design Review by the Planning Commission. Prior to the formal submittal of a Design Review application, applicants can elect to go through a Conceptual Development Review process and obtain preliminary written comments from staff regarding their project. This informal process takes 3 to 5 business days and costs \$120.

Table 5.3: Comparison of Residential Development Permit Fees, 2014				
	Orinda	Lafayette	Piedmont	Moraga
Use Permit	\$2,575	\$5,700 new bldg or structure \$3,800 existing bldg or structure	\$1,770	\$4,000 + cost
Plan/Design Review	\$1,060 plus \$1.30/sq ft, up to a maximum of \$6,695; staff hourly rate charges apply for multi-family	\$3,800 minor \$5,700 major	\$3,540 (new house)	\$1,500 despot + cost for admin, \$3,000 deposit + cost for Design Review Board, \$9,600 deposit + cost for Planning Commission
Tentative Tract Map	Staff hourly rate charges	\$8,750 + \$200/unit	N/A	\$12,000 deposit + cost
Minor Subdivision	Staff hourly rate charges	\$5,250 + \$200/unit.	N/A	\$6,000 deposit + cost
Lot Line Adjustment	\$1,350 Admin or \$1,980 for first 3 lots + \$280 each additional lot for Lot Line Adjustments requiring public meeting	\$1,200 Admin \$5,400 PC	N/A	\$3,600 deposit + cost
General Plan Amendment	Text change or map change – Staff hourly rate charges	\$9,500	N/A	\$6,000 deposit + cost
Variance	\$675 when combined with another application or addition; otherwise, staff hourly rate charges	\$1,750 Admin \$4,375 PC	\$ 710- \$930	\$5,000 deposit + cost
Zone Change	Staff hourly rate charges	\$9,500 + \$100/acre	N/A	\$3,000 deposit + cost

Source: City of Orinda 2014

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Table 5.4: Planning Application Fees		
Fee Category	Single-Family	Multi-Family
Variance	Staff hourly rate charges. A cash deposit will be required before work commences. (When combined with another application/addition: \$675. Time extension: \$385)	Staff hourly rate charges. A cash deposit will be required before work commences. (When combined with another application/addition: \$675. Time extension: \$685)
General Plan Amendment	Staff hourly rate charges. A cash deposit will be required before work commences.	Staff hourly rate charges. A cash deposit will be required before work commences.
Zone Change	Staff hourly rate charges. A cash deposit will be required before work commences.	Staff hourly rate charges. A cash deposit will be required before work commences.
Site Plan/Design Review	\$1,060 plus \$1.30/sq ft, up to a maximum of \$6,695.	Staff hourly rate charges. A cash deposit will be required before work commences.
Planned Unit Development	Staff hourly rate charges. A cash deposit will be required before work commences	Staff hourly rate charges. A cash deposit will be required before work commences.
Specific Plan	For non-standard projects a fee will be charged that is equivalent to the hourly cost of the employee(s) involved, the cost of materials, equipment, and overhead.	For non-standard projects a fee will be charged that is equivalent to the hourly cost of the employee(s) involved, the cost of materials, equipment, and overhead.
Subdivision		
Certificate of Compliance	\$630 1st lot \$515 2nd–5th lots \$340 6th + lots	\$630 1st lot \$515 2nd–5th lots \$340 6th + lots
Lot Line Adjustment (Administrative Approval)	\$1,350	\$1,350
Tentative Tract Map	Staff hourly rate charges. A cash deposit will be required before work commences.	Staff hourly rate charges. A cash deposit will be required before work commences.
Vesting tentative Map	Staff hourly rate charges. A cash deposit will be required before work commences.	Staff hourly rate charges. A cash deposit will be required before work commences.

Source: City of Orinda 2014

When a development application for a new residential unit is formally submitted, the Planning Department reviews the application for completeness. Although the Permit Streamlining Act gives staff 30 days to make this determination, it is typically made within one to two weeks of the submittal date. Once an application is deemed complete, the project is scheduled for the next Planning Commission public hearing. The Planning Commission meets twice a month. On average, projects are considered by the Planning Commission within three months of submittal. The City Council only reviews residential projects on appeal.

Upon Planning Commission approval of a design review application, and expiration of the subsequent 10-day appeal period, construction documents may be submitted for a building permit. The plan check/issuance of a building permit typically takes four to six weeks to complete.

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All development applications are processed in accordance with the time frames mandated by the state Permit Streamlining Act. In an effort to further streamline development review procedures, the City amended its development review process, including requiring Design Review for fewer residential projects, eliminating the City's Design Review Board (the Planning Commission assumed the function of this body), and creating a Zoning Administrator position to allow the hearing and approval of minor projects.

In 2009, the Planning Process Review Task Force published its audit of the City's residential development standards and review process. The Task Force produced 32 recommendations to make the residential development process more streamlined and user-friendly. Twenty-nine of the recommendations relating to housing were approved through Zoning Ordinance revisions in 2010.

5.2.9 Utilization of State and Federal Assistance Programs

The City is well positioned to compete for housing assistance programs for residential development projects. The City worked with Eden Housing to secure financing for the development of 67 affordable senior residences (Monteverde Senior Apartments) on the City-owned former library site. Among the financing sources used for the project were tax credits, County HOME, and CDBG funds, and through a land contribution from the City worth \$2.5 million, funding for which was negotiated with the developers of the Wilder project. During the approval process for the Monteverde Senior Apartments, Eden Housing representatives indicated that Orinda's Downtown could be well positioned for further housing assistance funds given the lack of existing housing in the Downtown, the proximity to the Orinda BART station, and the proximity to the commercial, cultural, and government services of downtown Orinda.

On the other hand, state and federal housing programs which finance the rehabilitation of existing housing stock or which benefit lower-income residents tend to be less viable in Orinda. Eligibility for such programs is usually based on indices such as the percentage of lower-income residents and the age or condition of the housing stock. In Orinda, homes are in excellent condition and the population is relatively affluent. The City may be better off relying on County programs for the limited population and structures that could benefit. Contra Costa County offers a number of low interest loan and grant programs that are open to participation by all county residents, including those living in incorporated cities.

The city's high housing values also result in rents that generally exceed the maximum levels for participation in the Section 8 Rental Assistance Program. Under this program, HUD pays landlords the difference between what a lower-income household can afford (30 percent of its income) and the fair market rent for adequate housing in the private market. According to the Contra Costa Housing Authority, there were no Section 8 vouchers being used in Orinda in 2014 however the Monteverde Senior Apartments will include 66-units when completed.

Some of the most commonly utilized state and federal housing assistance programs are enumerated and their applicability to the City of Orinda is examined in Table 5.5.

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5.2.10 Removal of Governmental Constraints

In the Housing Program section of this element, the City has set forth various measures that it will undertake to mitigate or remove governmental constraints that hinder the City from meeting its share of the regional housing needs. These measures include deferring payment of application/development impact fees and granting priority processing of development applications. While the City can and will undertake these measures to remove governmental constraints, non-governmental constraints beyond the City's control will continue to impact the affordability of housing in Orinda.

Table 5.5: Applicability of State and Federal Housing Programs

Program	Comments
Section 8 Vouchers	Local rents generally exceed fair market rents for the Section 8 program. No certificates/vouchers are currently in use in the City of Orinda. Countywide demand is far in excess of funding, which further limits the potential for participation by Orinda residents. Availability of assistance depends on efforts and priorities of the Contra Costa County Housing Authority.
Section 203(K)	Inapplicable due to well-maintained condition of local housing stock.
Section 8 New Construction	Provides security for projects financed with federal loans. Strong competition for limited funds available. Also, see comments related to Section 8 above.
Section 202	The HUD Section 202 program is used to construct housing for low-income seniors. Section 202 funds were used to help construct the Orinda Senior Village project. While there is limited funding currently available and intense competition for available funds, future downtown residential development could be eligible. Section 202 housing requires a nonprofit sponsor. These funds could be utilized as a potential source for elderly/disabled housing on multifamily housing sites.
Section 106(b) – Seed Money Loans	Used solely in connection with Section 202 loans. See comments related to Section 202 programs.
Community Development Block Grant (CDBG)	Funds may be used for rehabilitation, land write-down, and off-site improvement costs, but not for actual construction of new housing. Funds are inadequate to have a measurable impact on affordable housing opportunities, unless combined with other funding mechanisms. Development of affordable senior housing on the former library site was funded in part through CDBG.
Low Income Housing Tax Credits	Used in conjunction with loans, grants, and other forms of government assistance. LIHTC was a significant part of the funding package for the Eden project on the former library site and could be part of an overall funding package for development of housing on multi-family housing sites.
CHFA-Direct Lending	Overall construction costs, and resulting rents, are a deterrent to local use of program. Developers must apply directly to CHFA (California Housing Finance Agency) for loans.
Preservation Financing	Not needed since the only at-risk units in the city (Orinda Senior Village) have had their affordability contracts extended by the current owners.
California Self-Help Housing	Land availability and costs are major deterrents to use of program.
Mobile Home Park Resident Ownership Program	Mobile homes are allowed in Orinda, but high land costs discourage their development. An assessment of current building permits shows that no recent permits have been granted for mobile home installation.
Emergency Shelter	Needs are adequately being met at this time and the City adopted changes to its zoning regulations in 2013 to formally allow emergency shelters in the PS zone, in compliance with state law.

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Table 5.5: Applicability of State and Federal Housing Programs	
Program	Comments
Special User Housing Rehabilitation	Inapplicable due to absence of substandard housing.
Predevelopment Loans	Could potentially be used by a nonprofit sponsor to cover predevelopment expenses associated with potential elderly/disabled housing development.
Senior Citizen Shared Housing	Program could be used to provide outreach, referral, and placement services to senior citizens interested in shared housing arrangements. Ongoing costs and lack of in-house administrative staff are obstacles to use of program. The City could explore participating in an existing shared housing program, such as the program operated by ECHO Housing.
Section 811	Limited funding and intense competition for available funds. Requires nonprofit housing sponsor. Potential funding source for disabled housing on the sites listed in Chapter 4.
Rental Housing Construction	As name implies, program applies to construction of rental housing. Preference of local developers to construct for-sale housing is an obstacle to the use of program, as are local construction costs.
Deferred Payment Rehabilitation Loans	No need for program in light of condition of housing stock.
Marks Foran Rehabilitation Loans	No need for program due to well-maintained condition of local housing stock.
AB 1151-Density Bonuses	Applies to all local governments in California. The City's Zoning Ordinance provides density bonuses and other incentives for housing developments that meet criteria set forth in the California Government Code.
AB 655-Multi-Family Revenue Bonds	City would have to execute cooperative agreement in order to make countywide bond proceeds available locally. However, the use of funds depends on developer interest. Rents allowed under program could be a deterrent to use by local developers.
Single-Family Mortgage Revenue Bonds	Similar to multi-family bond program, the City would have to execute a cooperative agreement in order to make countywide bond proceeds available within city. Sale prices allowed under program eliminate new homes from consideration. Some resale homes within the city fall within program limits. Limited applicability.
Home Investment Partnerships (HOME)	Funds may be used for construction, acquisition/rehabilitation, and tenant based rental assistance. City supported Eden Housing's application for such funds.
FHLB Affordable Housing Program	Developers must apply to Bank of America Community Development Bank for assistance.
Tax Exempt Affordable Mortgage Program	Provides bond-financed, fixed-rate mortgage for 30 to 40 years to developers of housing that has at least 20% of units occupied and affordable to households making no more than 50% of county median income. Program depends on developers providing housing.

Source: City of Orinda 2014

5.3 NON-GOVERNMENTAL CONSTRAINTS

Non-governmental constraints include the availability of financing, the price of land, and the cost of construction. These and other constraints are discussed below.

5.3.1 Land Costs

Since the mid-1960s, raw land prices have been significantly higher in the San Francisco Bay Area than in other areas of California and the rest of the United States. The Construction Industry Research Board (CIRB) reported that land costs for a single-family home rose from \$6,600 (21 percent of the total cost) in 1970 to \$26,700 (27.8 percent) in 1980. By 2000, land was 32 percent of total home cost. There was a significant national decline in land value starting in 2005, but a snapshot of current land for sale in Orinda shows that prices are still unaffordable to most households.

Based on research conducted in July 2014 as part of the Housing Element update, sales prices for vacant land in Orinda ranged from a low of \$109,000 to a high of \$750,000 for a 1.2-acre site. The median price of a vacant parcel was \$450,111. Even without a home on the lot, a parcel in Orinda is beyond the means of very low- and low-income households. Moreover, the more affordable lots in the city tend to be the most constrained. Their steep slopes or awkward dimensions mean that special design solutions and construction techniques may be required to build a home.

High land costs in Orinda reflect the scarcity of developable land in the city, the relatively large parcel sizes, and the city's desirability as a place to live. These costs represent a constraint to affordable housing development, since it does not make economic sense for a builder to construct a modest, entry-level home on a lot that costs hundreds of thousands of dollars.

Although not required by state housing law, the City has written down land costs through a \$2.5 million contribution negotiated with the developers of the Wilder project to facilitate development of the Monteverde Senior Apartments development (on the former public library site) and to facilitate the inclusion of ownership units affordable to moderate-income households in the Orinda Grove development on the Pine Grove site (a former public school). It has also identified church-owned property as housing opportunity sites, recognizing that private land may be too expensive to support affordable units on a large scale. Moving forward, the City may opt at its own discretion to continue to use these approaches to dealing with high land costs and limited land supply in the city.

5.3.2 Land Availability/ Environmental Constraints

A community's environmental setting affects the feasibility and cost of developing housing. Environmental issues range from the availability of water to the suitability of land for development due to potential exposure to seismic, flooding, wildfire, and other hazards. If not properly recognized and accommodated in residential design, these environmental features could potentially endanger lives and property.

Most of the developable land area in Orinda is zoned for low-density residential development. Most residential parcels have been developed to their maximum permitted density, although

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many have the potential for second dwelling units. While it is estimated that over 500 homes could be developed on vacant lots throughout the city's residential neighborhoods, some of these lots are located on steep hillside areas that are difficult to access, thus making them difficult to develop. Geotechnical studies are typically required when new homes are proposed to ensure that hazards such as landslides and seismic stability are addressed.

Sites in and around Orinda Village and Orinda Crossroads are generally the best suited for urban development and higher-density residential uses. They have good access, gentle topography, utility service, and no natural or man-made hazards. The major constraints to development in these areas are San Pablo Creek and the PG&E transmission lines. The creek runs north-south through Orinda Village. It is buried below ground in some locations and runs above ground in others. Where the creek has not been buried, development must be set back from the banks to avoid flooding and protect riparian vegetation. This is more of a commercial development constraint than a residential constraint, given the commercial zoning along the creek corridor.

The City has not counted these sites in its inventory of available housing sites. Similarly, the presence of multiple high voltage transmission lines (and associated steel towers) in and around Downtown Orinda creates a potential constraint on several sites, but none of these sites has been identified for housing.

The City is aware of the requirements of Assembly Bill (AB) 162 (2007). AB 162 requires every city and county to amend the safety and conservation elements of its general plan to include analysis and policies regarding flood hazards and management.

5.3.3 Infrastructure Capacity

There are no infrastructure constraints to development in Orinda other than the absence of sewer lines in portions of the El Toyonal area (discussed earlier). The areas identified for possible future multi-family development are located in areas with water, sewer, and drainage services. These areas would only require laterals to utility lines located in adjacent streets for service.

The City receives water from EBMUD and sewer from the Central Contra Costa Sanitary District. Orinda represents approximately 1.4 percent of the EBMUD service area population. EBMUD prepared an Urban Water Management Plan in 2010 that includes capital improvement plans to serve its 1.34 million customers located in Alameda and Contra Costa counties for the next three decades. EBMUD is also implementing plans to supplement its water supply to meet long-term growth forecasts, along with seismic upgrade projects to replace aging lines and storage tanks. The utility has accounted for Orinda's projected growth in its forecasts and capital improvement programs. Water supply is adequate to meet projected needs. Similarly, Central San has prepared long-term facility plans which assume levels of growth in Orinda that are consistent with the Housing Element. No capacity or service constraints have been identified.

To comply with Senate Bill (SB) 1087, the City will immediately forward its adopted Housing Element to its water and wastewater providers so they can grant priority for service allocations to proposed developments that include units affordable to lower-income households.

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5.3.4 Construction Costs

According to Building-cost.net, a housing construction cost resource, the estimated construction cost (without land costs or fees) for a 2,500-square-foot home with an attached 400-square-foot garage, central heating and air, and average building materials is \$305,919 as of July 2014 for the Oakland/Contra Costa County area. The cost per unit of building a multi-family project is generally lower than that of a single-family home.

However, construction costs in Orinda are higher than regional averages, since most work is custom-built for owners rather than built on speculation or in large quantities (with associated economies of scale). Many residents have remodeled their homes using high-end materials and construction methods. In addition, market conditions drive the demand for homes with numerous amenities and luxury market features. New construction costs of \$300 per square foot are not uncommon, resulting in home costs that often exceed \$1 million. When homes are sold, labor and material costs may be passed along to future buyers.

5.3.5 Housing Costs

As noted in Chapter 3, DataQuick reported the median value of Orinda homes at over \$1 million in 2013. The continued increase in the values of existing residences precludes the creation of a local “trickle-down” market wherein housing becomes affordable as it gets older. Many current homeowners would not be able to purchase their own homes at current market prices.

This constraint is beyond the control of local government, but significantly affects the viability of building new affordable units. Some cities have responded to high cost market conditions by mandating the inclusion of affordable units in new market-rate development projects (e.g., inclusionary zoning.) Orinda does not have an inclusionary zoning requirement, although it negotiated the inclusion of affordable units (along with market-rate units) in the Pulte development on the former Pine Grove School site (Orinda Grove). Such negotiations could be considered if future larger-scale projects are proposed.

5.3.6 Financing Costs

In June 2014, the prevailing mortgage interest rate for a 30-year fixed loan was 4.25 percent. From a historical perspective, mortgage rates are low compared to 18.8 percent in 1982 and have somewhat offset the inflation of housing and construction costs. However, financing may be more difficult to secure now than it was five years ago, particularly for low- and moderate-income buyers. For qualified homebuyers, securing financing is not viewed as a potential constraint to the development, improvement, or maintenance of housing in Orinda.

5.3.7 Other Non-Governmental Constraints

Some Orinda neighborhoods contain dedicated open space areas, such as landscaped greenbelts and natural hillside areas, which are owned and maintained by homeowners associations. These open space areas are not available as potential housing sites.

Another non-governmental constraint may be community opposition to higher-density housing. Such objections are based on concerns about traffic, parking, school overcrowding, police and fire response times, and similar issues.

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