

**Municipal Law Symposium**

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LEAGUE OF  
**CALIFORNIA  
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Strengthening California Cities  
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# Catching Fire

Wildfire Impacts and Challenges  
at the Local Level

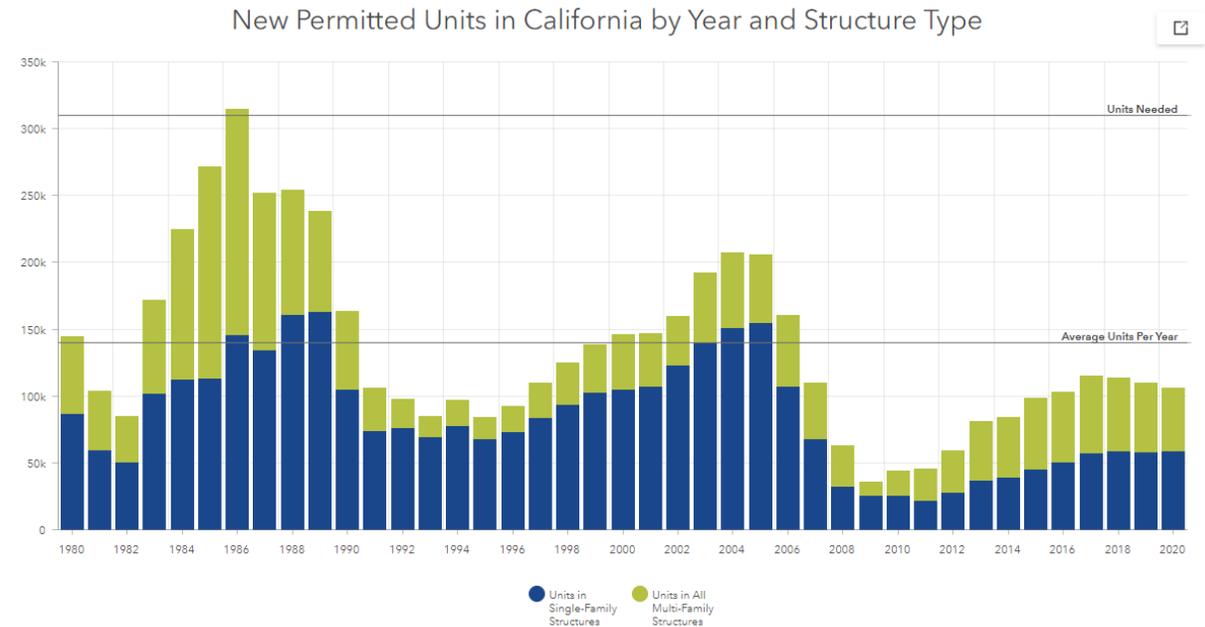
**Eric S. Phillips**  
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# More than one statewide crisis . . .

Climate change has exacerbated wildfire risks



Chronic lack of production has contributed to housing affordability issues



# Legislative Response: Increase Production

- **SB 9 (2021, Atkins)** evolved over three years to end zoning for single-unit-only development

**SB 827 (Wiener, 2018)**  
*Failed first committee hearing*

**SB 50 (Wiener, 2019-2020)**  
*Two-Year Bill and then Failed Senate Floor vote*

**SB 1120 (Atkins, 2020)**  
*Failed Assembly Floor vote*

**SB 9 (Atkins, 2021)**  
*Signed by the Governor!*

# Gov. Code Sec. 65852.21 (Two Units)

- Requires ministerial approval of proposed housing developments containing no more than two units
  - Only applies in a “single-family residential zone,” which is not defined
  - Ministerial approval means no discretionary review or hearing
  - CEQA not applicable
  - The Coastal Act applies, however no CDP hearings are permitted
- Single units may be eligible for ministerial approval

# Gov. Code Sec. 66411.7 (Lot Splits)

- Requires ministerial approval of parcel maps to create two parcels from one
  - Only applies in a “single-family residential zone”
  - Ministerial approval means CEQA not applicable
  - The Coastal Act applies, however no CDP hearings are permitted

# Projects qualify if they...

- Are within the boundaries of an urbanized area or urban cluster
- Satisfy SB 35 environmental criteria
  - BUT note that unlike SB 35, SB 9 does apply in the Coastal Zone
  - Includes modest requirements for fire safety

# Gov. Code 65913.4(a)(6)(D)

Project site may not be “**Within a very high fire hazard severity zone**, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178, **or within a high or very high fire hazard severity zone** as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code. **This subparagraph does not apply to . . . sites that have adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.**”

# Two-Unit Projects may be denied if. .

- - They require demolition of:
    - restricted affordable housing,
    - housing subject to rent or price control,
    - housing occupied by tenants in past 3 years, or
    - housing withdrawn from rental market under the Ellis Act
  - Are located within a historic district or property included on the State Historic Resources Inventory or within a historic area designated by local ordinance
  - **The building official makes a written finding based on preponderance of the evidence of a specific, adverse impact to public health, safety, or the physical environment**

# Two-Unit Projects and Local Standards

Local objective standards apply, provided that:

- Standards do not preclude two units at least 800 sf in area
- Side and rear yard setback requirements no greater than 4 feet
  - BUT **no setback** may be required for existing structure conversions with no change in location or dimension
- No more than 1 parking space required per unit
  - BUT **no parking** may be required near transit or car share vehicles

# SB 9 continued a trend

- **2016:** First significant reforms to ADU and Junior ADU laws in Gov. Code Sec. 65852.2 and 65852.22
  - At least 3 units allowed on all residential lots, with few exceptions
  - “The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety.”
  - Setback and parking standards the same as SB 9
- **2017:** Adoption of SB 35 to require streamlined, ministerial project approval
- **2019:** Adoption of the Housing Crisis Act
  - Gov. Code Sec 66300 limits moratoria, growth control measures, and downzoning
  - “This section shall not apply to a housing development project located within a very high fire hazard severity zone” as defined in Section 51177.

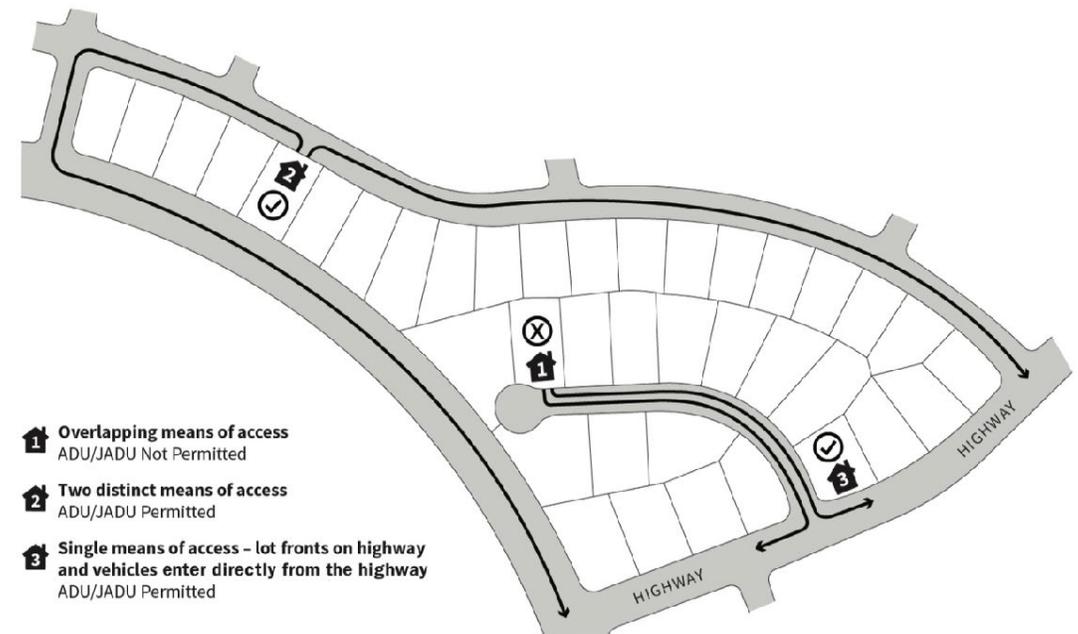
# Example VHFHSZ Restriction

a. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access to a highway that meet the following requirements:

- i. The two distinct means of vehicular access, as measured from the lot frontage to the point of intersection with a highway, shall not overlap with each other. For example, see Figure 22.140.640-A, below;
- ii. Each distinct means of vehicular access shall contain pavement of at least 24 feet in width, exclusive of sidewalks; and
- iii. Each distinct means of access shall be built to public street standards approved by Public Works.

b. Where a lot or any portion thereof is located within a Very High Fire Hazard Severity Zone and is not located within a Hillside Management Area, an accessory dwelling unit or a junior accessory dwelling unit shall be prohibited on the lot, unless it has two distinct means of vehicular access from the lot to a highway that meet the requirements above, except that the means of vehicular access may include an unpaved road of at least 24 feet in width maintained by Public Works.

c. Notwithstanding Subsections C.2.a and C.2.b, above, accessory dwelling units and junior accessory dwelling units shall be permitted on lots with a single means of vehicular access, if such lots front a highway and vehicles enter directly from the highway. For example, see Figure 22.140.640-A, below.



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# Catching Fire - Wildfire Impacts & Challenges at the Local Level





## Impacts & Challenges...

Risk Considerations:

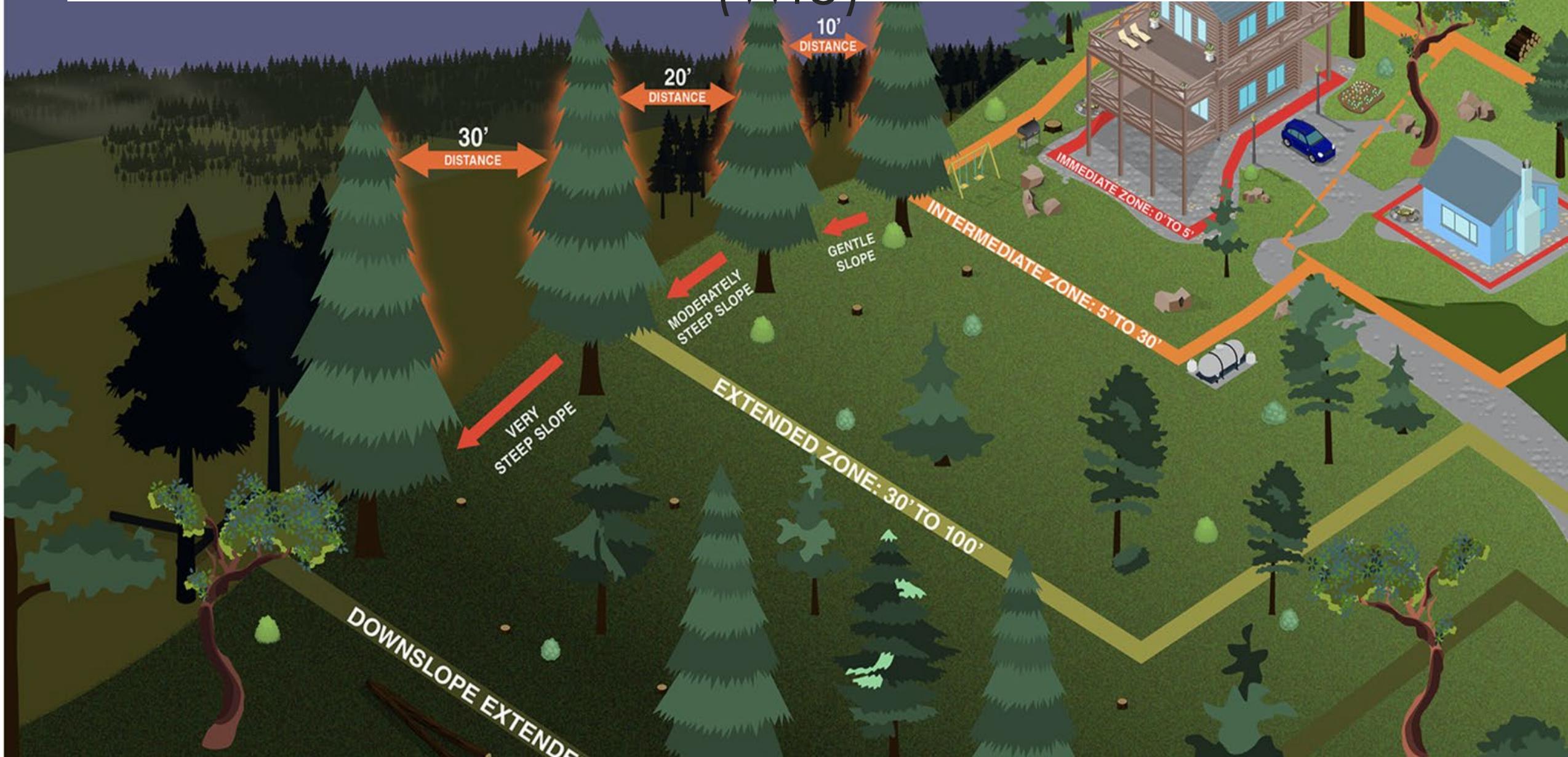
Increase in Population- Housing Mandates

Evacuation Considerations- Ingress & Egress, Existing Roadways

Infrastructure Deficiencies- Roadways, Utilities, Services, Transportation

Social Challenges- Planning, Educational Outreach and Training, Notifications

# Defensible Space- Wildland Urban Interface (WUI)







# Agency Takeaways



**In fire-based ecosystems, its not a question of if there will be a wildfire, but a matter of when.**



**Have a place to take your pets and livestock in the event of an evacuation.**



**Leave before its too late - nothing you own is worth a life.**

Wildfire Disaster Psychology & Sociology  
Public Outreach & Education  
Wildfire Adaptive Communities  
Trusted Information Sources  
Roadways with Limited Access & Egress-  
Width, Turnarounds, Secondary Egress (One way-In-Out)  
Evacuation Terminology-  
Alert, Warning, Order  
Registration in Early Notifications-  
AlertSCC, Code Red, Nixel  
Public Transportation  
Access & Functional Challenges (AFN)  
Age, Mobility, Inability to Self-evacuate  
& Disability



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