AGENDA

PLANNING COMMISSION
REGULAR MEETING
VIRTUAL PLANNING COMMISSION REGULAR MEETING

TUESDAY, January 26, 2021
7:00 P.M.

To protect our residents, officials, and staff, and aligned with the Governor's executive order to Shelter-at-Home, this meeting is being conducted utilizing teleconferencing means consistent with State order that that allows the public to address the local legislative body electronically.

Location:
Instructions for Virtual Planning Commission Regular Meeting
To follow or participate in the meeting:

1. Videoconference:
   a. Follow the meeting on-line, click here to register: https://us02web.zoom.us/webinar/register/WN_P6gIwu3ySbOQOe-aCJ5stw
   b. After clicking on the URL, please take a few seconds to submit your first name, last name, and e-mail address, then click "Register" which will approve your registration and a new URL to join the meeting will appear.
2. Phone-in:
   a. Once registered, you will receive an e-mail with instructions to join the meeting telephonically, and then dial 877-853-5257 (Toll Free) using the Webinar ID and Password found in the e-mail.
3. E-mail Public Comments:
   a. If preferred, please E-mail Public Comments to Community Development Director Matthew Feske at mfeske@ci.clayton.ca.us by 5:00 P.M. on the day of the Planning Commission meeting. All E-mailed Public Comments will be forwarded to the entire Planning Commission.

For those who choose to attend the meeting via videoconferencing or telephone shall have three minutes for public comments.

- A complete agenda packet is available for public review on the City's website at www.ci.clayton.ca.us
- Agendas are posted at: 1) City Hall, 6000 Heritage Trail, Clayton; 2) Library, 6125 Clayton Road, Clayton; 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton; and 4) City Website at www.ci.clayton.ca.us
- If you have special accommodation requirements to participate, please call the Community Development Department office at least 72 hours in advance of the meeting at 925-673-7300.

CALL TO ORDER

1. **PLEDGE OF ALLEGIANCE**

2. **ROLL CALL**

3. **PRESENTATION AND ANNOUNCEMENTS:**

   A. PRESENTATIONS:
   None.

   B. ANNOUNCEMENTS:
   None.

4. **ACCEPTANCE OF THE AGENDA:** The Planning Commission will discuss the order of the agenda, may amend the order, add urgency items, note abstentions or "no" votes on Consent Calendar items, and request Consent Calendar items be removed from the Consent Calendar for discussion. The Planning Commission may also remove items from the Consent Calendar prior to that portion of the Agenda.

5. **PUBLIC COMMENT (Non-Agenda Items):** This time has been set aside for members of the public to address the Planning Commission on items of general interest within the subject matter jurisdiction of the City. Although the Planning Commission values your comments, pursuant to the Brown Act, the Planning Commission generally cannot take any action on items not listed on the posted agenda. Three (3) minutes will be assigned to each speaker.

6. **CONSENT CALENDAR**
   The following routine matters may be acted upon by one motion. Individual items may be removed by the Planning Commission for separate discussion at this time or under Acceptance of the Agenda. The ordinance title is deemed to be read in its entirety and further reading waived on any ordinance listed on the Consent Calendar.

   A. NONE

7. **PUBLIC HEARINGS**

   A. NONE

8. **ACTION ITEMS**

   A. Landscape Memorial (Keith Hayden)
   Recommendation: Approve the Rory Richmond Memorial Garden

   B. Housing Accountability Act (Vice Chair Denslow)
   Recommendation: Receive and File

9. **PLANNING COMMISSION REQUESTS AND UPCOMING AGENDA DEVELOPMENT**
   This time is set aside for the Planning Commission to make requests of staff, and/or issues of concern to Planning Commissioners are briefly presented, prioritized, and set for future meeting dates.

10. **ADJOURNMENT**
    The next Planning Commission Regular Meeting is Tuesday, February 9, 2021.

AGENDA REPORT

TO: **HONORABLE CHAIR AND PLANNING COMMISSIONERS**

FROM: **MATTHEW FESKE, COMMUNITY DEVELOPMENT DIRECTOR**

DATE: **JANUARY 26, 2021**

SUBJECT: **RORY RICHMOND MEMORIAL GARDEN**

RECOMMENDATION

It is recommended that the Planning Commission adopt a Resolution to approve the concept and installation of the Rory Richmond Memorial Garden in the City's vacant and undeveloped property between the short, white picket fence to the right of the entrance into the City's parking lot next to the Clayton Museum & Garden and the sidewalk on Main Street.

BACKGROUND

The Rory Richmond Memorial Garden would be in honor of a very active Clayton community volunteer, Rory Richmond, who passed away recently. Rory was a member of most of the civic groups in Clayton, including the Clayton Valley Garden Club, the Clayton Historical Society (who maintains the Clayton Museum) and the Clayton Business and Community Association (CBCA), chairing and growing the very popular Clayton CBCA Barbecue Cook-Off into a major community event.

Rory was an avid succulent gardener and this Memorial Garden is proposed to focus on succulents, particularly local varieties, and could serve as the western-themed succulent "leg" of the Clayton Museum Educational / Demonstration Garden. These types of plants provide low-water, drought-tolerant landscaping and would set a good example by promoting water conservation and be an appropriate addition to our western-themed, historic downtown area. The Garden would also illustrate local geology with varied rock, stone, mining-related materials and artifacts, and plants that grow naturally in the Mt. Diablo region and Clayton Valley area.

Source of Garden Plants

The initial plants for the Garden would include succulents from Rory's own garden and those donated by the Clayton Valley Garden Club and Rory's many friends in the community. Additional plantings will be provided in the future from volunteer donations and as needed.

No City Maintenance or Expense Needed:
Irrigation for the Garden would be provided from the Clayton Museum's garden water system from an independent valve and timer based at the museum, using industry-standard drip or micro spray delivery, and watered as appropriate. Maintenance of the garden would be provided by local volunteers from the Clayton Valley Garden Club and the Clayton Historical Society and the local community. A low, wood fence would be erected surrounding the garden, and this fence would also be maintained by the two clubs involved. As a result, the garden would be self-sustaining and no City maintenance or expense would be required.

Timing of the Garden Development:
The volunteer group that will be developing the Garden would like to initiate plant donations and begin the Garden planting this Spring, so City approval is being requested at this time.

ANALYSIS

The proposed Garden is consistent with and is considered as landscaping for the parking area. The proposed Garden consists mostly of landscaping and a memorial. The proposed does not rise to the level of a structure or building and the land use does not change. The proposed Garden is in conformance with the General Plan and is consistent with the underlying zone and Town Center Specific Plan land use.

ENVIRONMENTAL:
The proposed Garden is considered to be a project by the California Environmental Quality Act. The proposed Rory Richmond Memorial Garden is Categorically Exempt per Section 15304 – Minor Alterations to Land, Class 4 consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. (b) New gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire-resistant landscaping.

FISCAL IMPACTS

No city funding is anticipated.

ATTACHMENTS

1. Resolution
2. Rory Richmond Memorial Garden Description and Plans

RESOLUTION NO. ###-2021

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLAYTON APPROVING THE CONCEPT AND INSTALLATION OF THE RORY RICHMOND MEMORIAL GARDEN IN THE CITY'S VACANT AND UNDEVELOPED PROPERTY BETWEEN THE SHORT, WHITE PICKET FENCE TO THE RIGHT OF THE ENTRANCE INTO THE CITY'S PARKING LOT NEXT TO THE CLAYTON MUSEUM & GARDEN AND THE SIDEWALK ON MAIN STREET

WHEREAS, the applicant has proposed the Rory Richmond Memorial Garden in the city's vacant and undeveloped property between the short, white picket fence to the right of the entrance into the city's parking lot next to the Clayton Museum & Garden and the sidewalk on Main street;

WHEREAS, on January 26, 2021, the Planning Commission conducted a public meeting on the proposed Garden;

WHEREAS, at the public meeting the Planning Commission considered the staff report, oral and written, and testimony and materials presented; and

WHEREAS, the Planning Commission has reviewed and considered the exemption determination under the California Environmental Quality Act ("CEQA") prior to taking any approval actions on this Resolution and recommends approval of such exemption.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Clayton:

Section 1. The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. The Planning Commission hereby finds that the proposed Rory Richmond Memorial Garden is in the public interest with the following conditions:

A. City Council must approve the name 'Rory Richmond Memorial Garden' prior to officially naming the memorial garden.
B. The volunteers of the Rory Richmond Memorial Garden install and maintain the garden area, including but not limited to the plants, fence, memorial, and other landscape material.
C. The Clayton Museum approve and install an irrigation line and irrigation heads and maintain the irrigation system.
D. A park bench re-installed upon request.

Section 3. The proposed has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of

Regulations, Title 14, Sections 15000 et seq.). The project is exempt from CEQA as it can be seen with certainty that there is no impact on the environment. (See CEQA Guidelines 15304 (b) as described in the staff report.

Section 4. This Resolution is effective upon its adoption.

AYES:

NOES:

ABSENT:

ABSTAIN:

THE PLANNING COMMISSION OF CLAYTON, CA

_____
A.J. Chippero, Chair

ATTEST

_____
Matthew Feske
Planning Commission Secretary

Description of Proposed Rory Richmond Memorial Garden

Garden Concept: The Rory Richmond Memorial Garden is proposed to be developed on Clayton's Main Street, in the City's vacant, dirt, undeveloped property between the short, white picket fence to the right of the entrance into the City's parking lot next to the Clayton Museum & Garden and the sidewalk on Main Street. A picture of the proposed area and a conceptual Garden design are attached. The garden would be in honor of a very active Clayton community volunteer, Rory Richmond, who passed away recently. Rory was a member of most of the civic groups in Clayton, including the Clayton Valley Garden Club, the Clayton Historical Society (who maintains the Clayton Museum) and the Clayton Business and Community Association (CBCA), chairing and growing the very popular Clayton CBCA Barbecue Cook-Off into a major community event.

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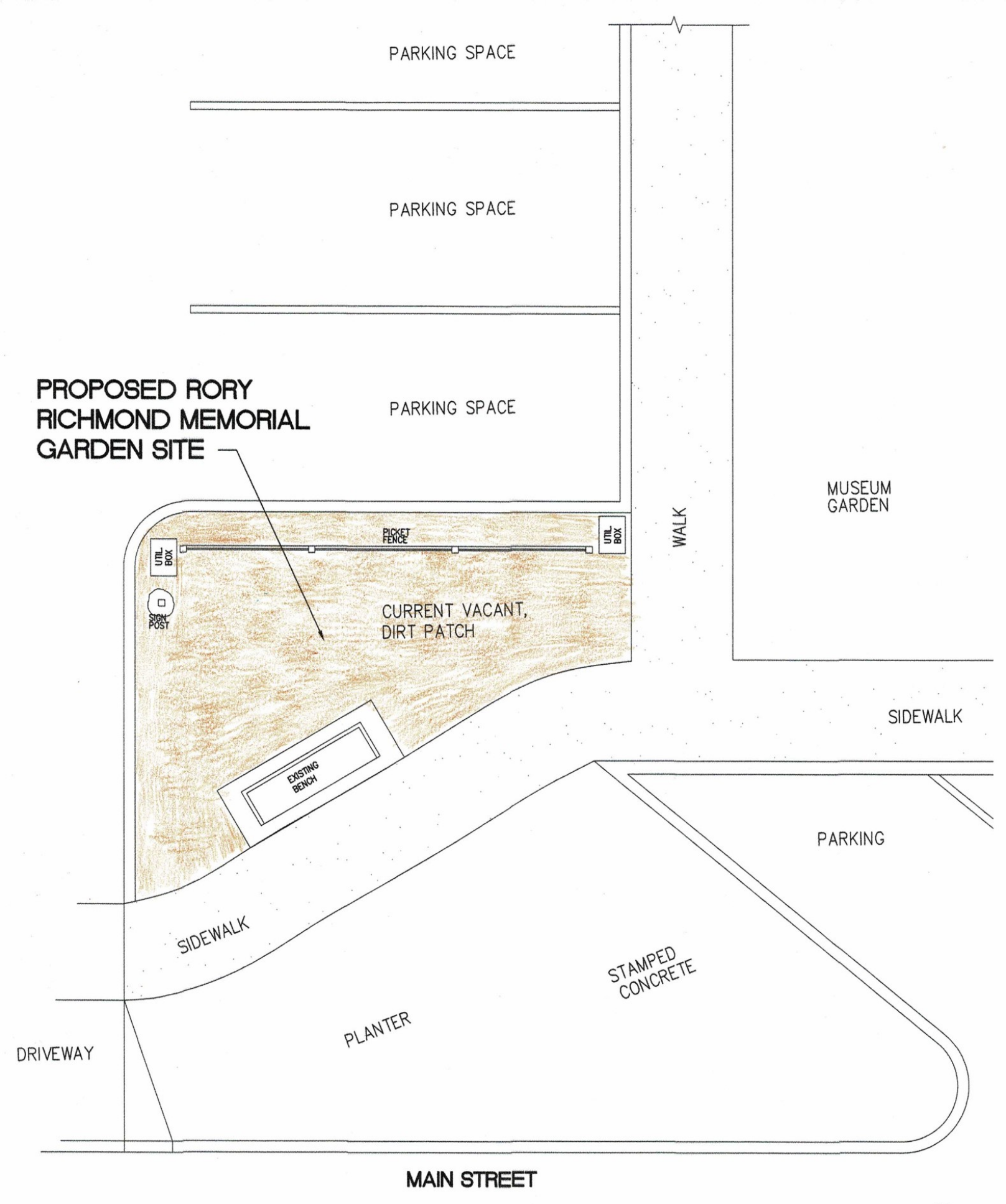
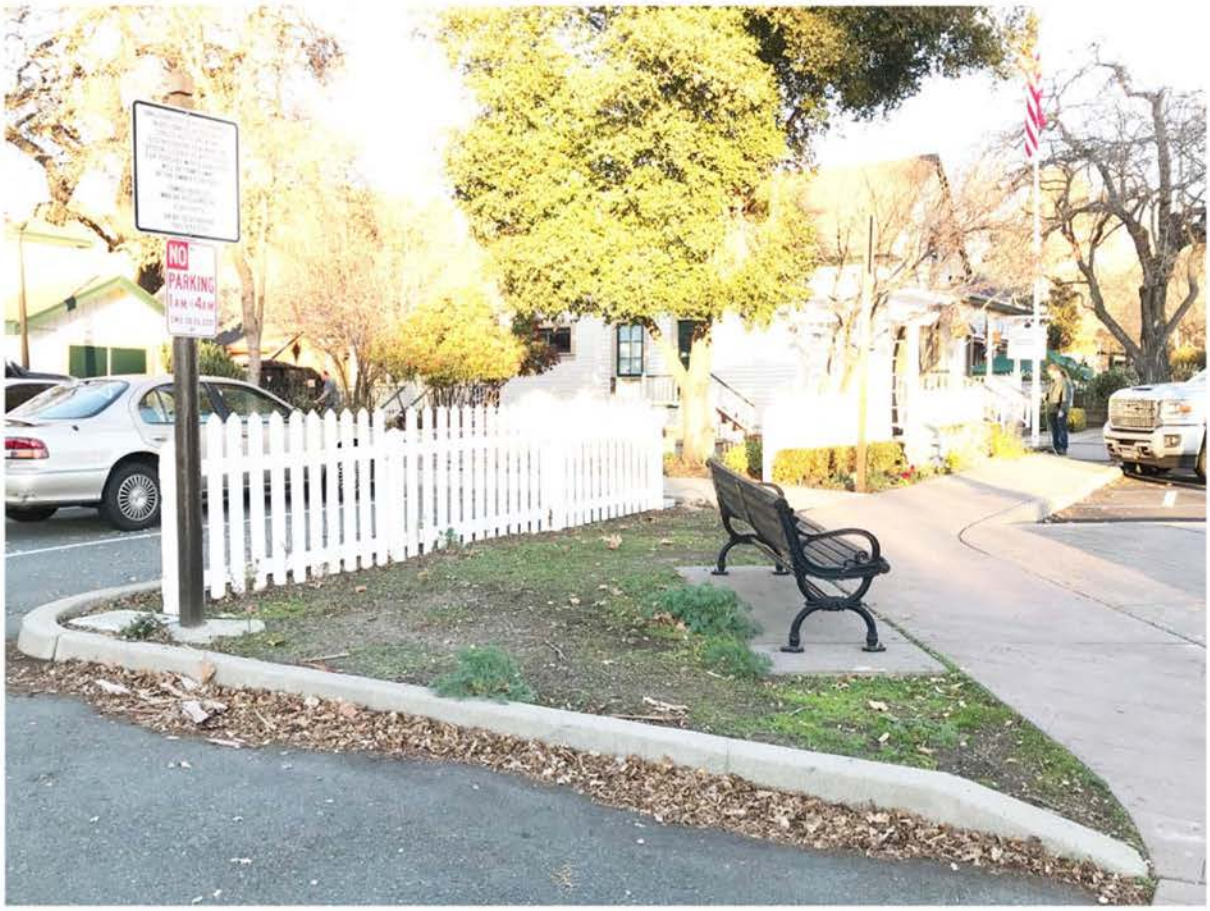


1 PROPOSED RORY RICHMOND MEMORIAL GARDEN - EXIST. COND.

3/16"=1'-0"

1/18/21

N



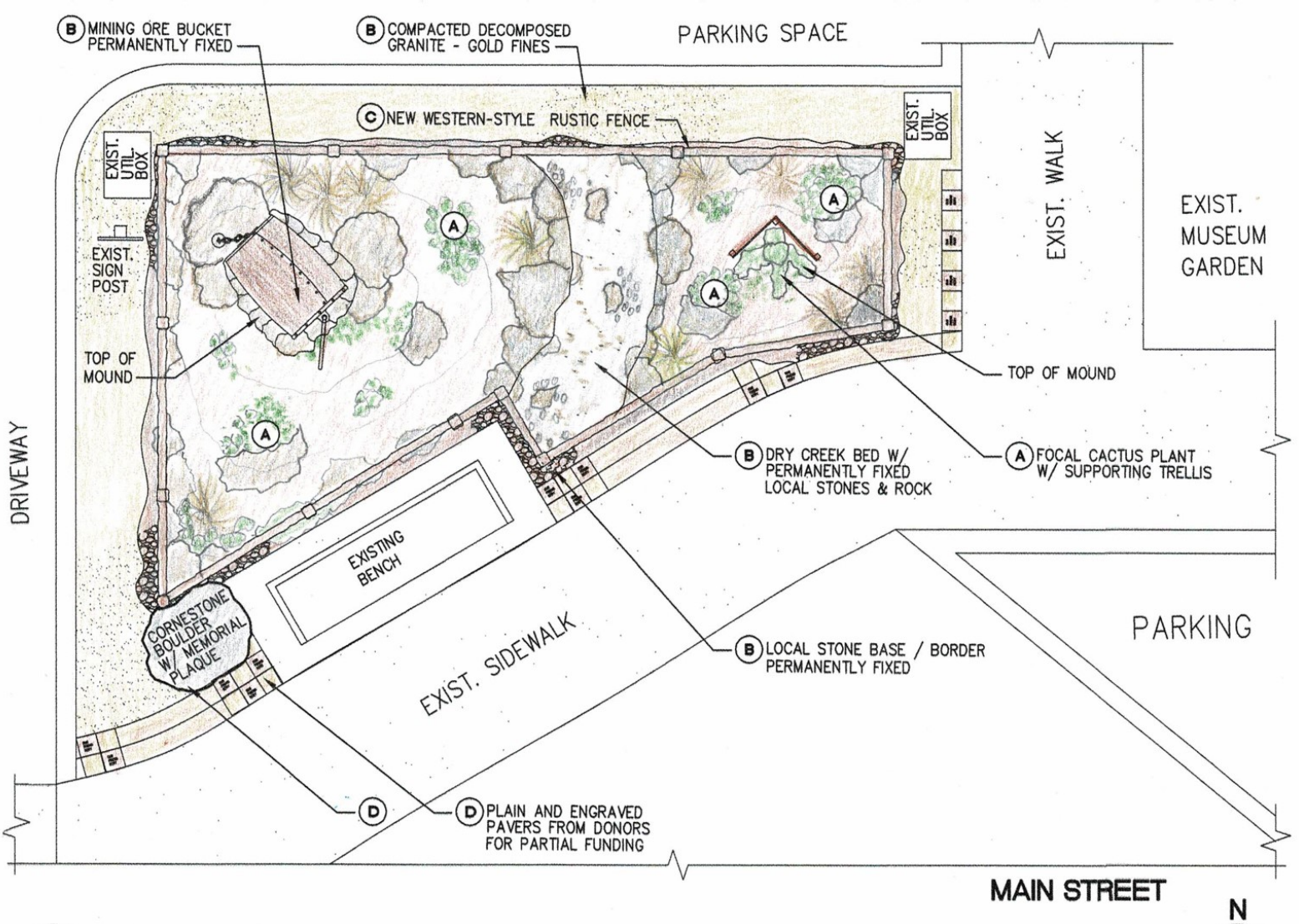
2

PROPOSED RORY RICHMOND MEMORIAL GARDEN -

1/4"=1'-0"

EXISTING SITE PHOTOS

1/18/2021



3 PROPOSED RORY RICHMOND MEMORIAL GARDEN - CONCEPTUAL PLAN

1/4"=1'-0"

1/18/2021

CONCEPTUAL DESIGN FEATURES:

A SUCCULENT AND DROUGHT TOLERANT PLANTS AND GRASSES WITH INTERESTING:


FORM


VARIGATION

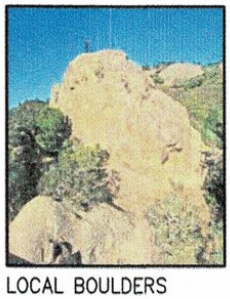

GEOMETRY

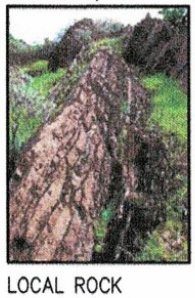

COVERAGE

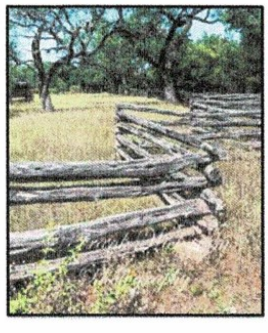

BLOOMS

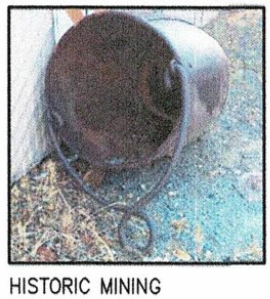

TEXTURE

B INTERESTING LOCAL BOULDERS, ROCKS AND LOCAL GEOLOGICAL AND MINING INFORMATION & ARTIFACT:


LOCAL BOULDERS

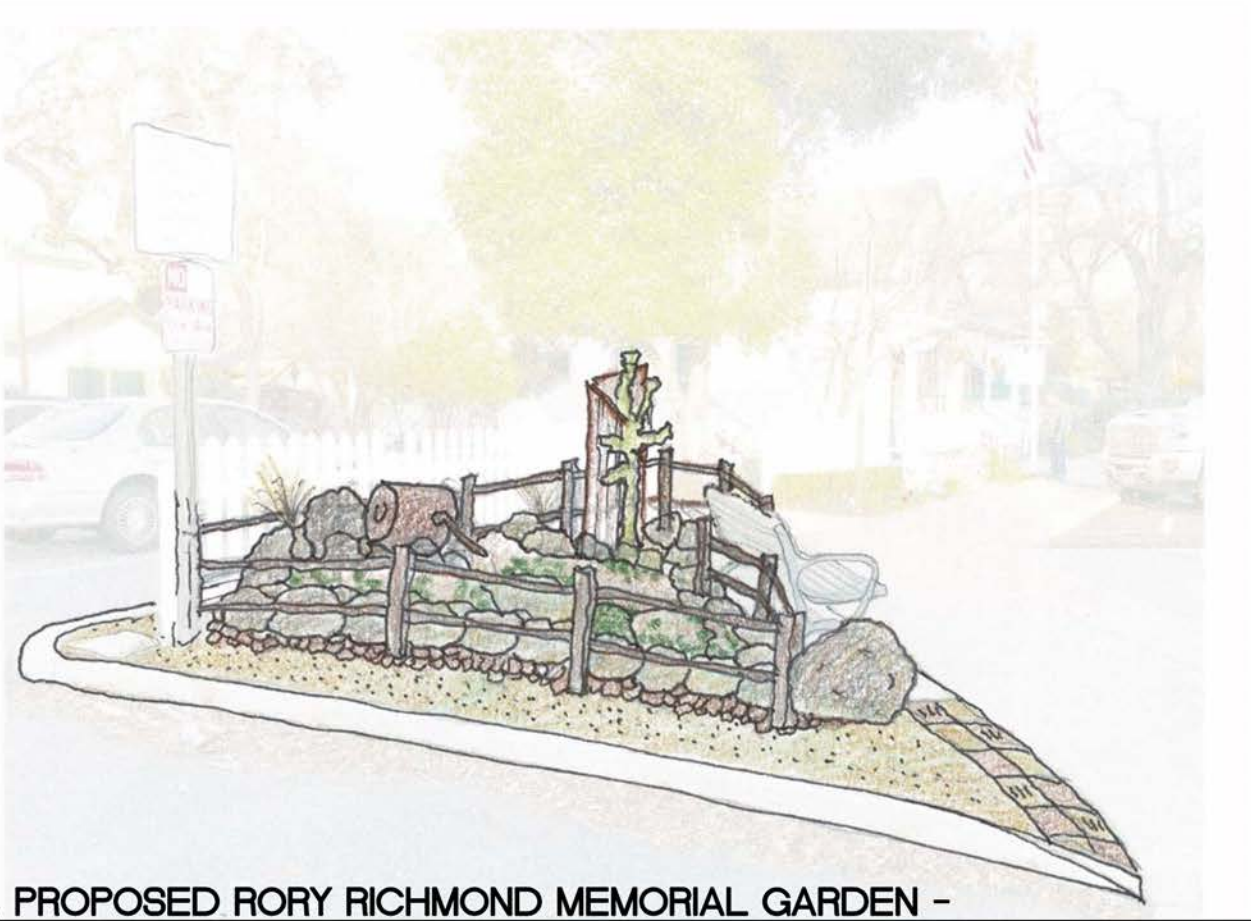

LOCAL ROCK




HISTORIC MINING ORE BUCKET

C RUSTIC, WESTERN-STYLE PROTECTIVE FENCE:

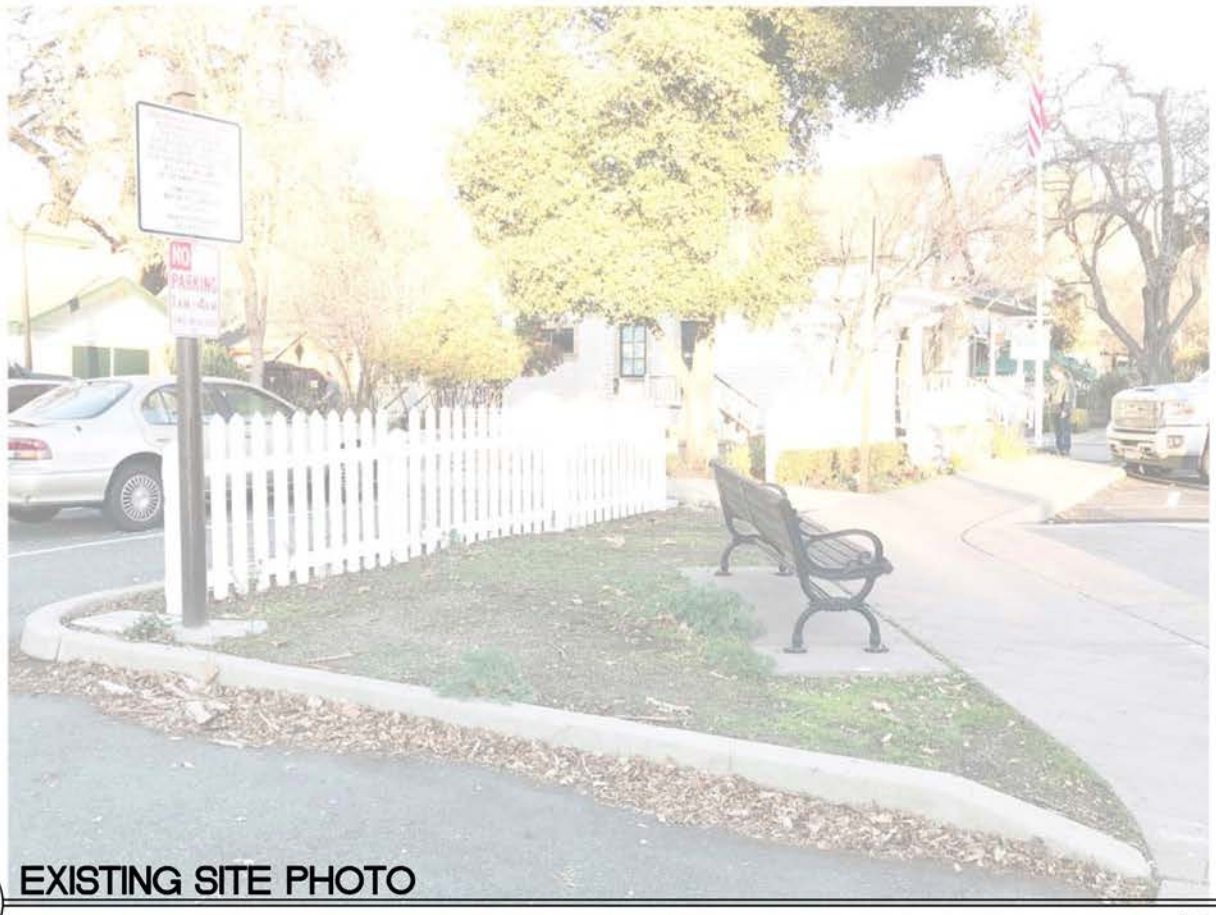
D MEMORIAL PLAQUE AND ENGRAVED PAVERS FOR RORY RICHMOND - FRIEND OF THE CLAYTON COMMUNITY



4 PROPOSED RORY RICHMOND MEMORIAL GARDEN - CONCEPTUAL ILLUSTRATION

1/4"=1'-0"

1/18/2021



5 EXISTING SITE PHOTO

1/18/2021

CITY OF CLAYTON
Founded 1857 . . Incorporated 1964

AGENDA REPORT

TO: **HONORABLE CHAIR AND PLANNING COMMISSIONERS**

FROM: **MATTHEW FESKE, COMMUNITY DEVELOPMENT DIRECTOR**

DATE: **JANUARY 26, 2021**

SUBJECT: **HOUSING ACCOUNTABILITY ACT (HAA)**

RECOMMENDATION

It is recommended that the Planning Commission receive, discuss, and file.

BACKGROUND

The Housing Accountability Act (HAA), Government Code section 65589.5, limits a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. The Legislature first enacted the HAA in 1982 and recently amended the HAA to expand and strengthen its provisions as part of the overall recognition of the critically low volumes of housing stock in California. In amending the HAA, the Legislature made repeated findings that the lack of housing and the lack of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life in California.

DISCUSSION POINTS

- Subdivision (d) of the HAA describes requirements applicable to housing development projects that include units affordable to very-low-, low- and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing.

- Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments.

- Subdivisions (k), (l), and (m) expand the potential consequences for violations of the HAA. In 2017, the Legislature also granted the California Department of Housing and Community Development (HCD) authority to refer HAA violations to the Office of the Attorney General in Government Code section 65585.

- Housing Development Project Definition
  Government Code, § 65589.5, subdivision (h)(2).

  A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

- Housing for Very-Low-, Low-, or Moderate-Income Households
  Government Code, § 65589.5, subdivision (h)(3).

  In order to qualify as a housing development affordable to lower- or moderate- income households, the project must meet one of the following two criteria:

  - At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income.
  - 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

  In addition, the rental or sales prices of that housing cannot exceed the following standards:

  - Housing units targeted for lower-income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based.
  - Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

ATTACHMENTS

1. Housing Accountability Act Technical Assistance Advisory
2. Housing Accountability Act Decision Matrix

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov

September 15, 2020

MEMORANDUM FOR: Planning Directors and Interested Parties

FROM: Megan Kirkeby, Deputy Director
Division of Housing Policy Development

SUBJECT: **Housing Accountability Act Technical Assistance Advisory (Government Code Section 65589.5)**

The Housing Accountability Act (HAA), Government Code section 65589.5, establishes limitations to a local government's ability to deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. The Legislature first enacted the HAA in 1982 and recently amended the HAA to expand and strengthen its provisions as part of the overall recognition of the critically low volumes of housing stock in California. In amending the HAA, the Legislature made repeated findings that the lack of housing and the lack of affordable housing, is a critical problem that threatens the economic, environmental, and social quality of life in California. This Technical Assistance Advisory provides guidance on implementation of the HAA, including the following amendments.

Chapter 368, Statutes of 2017 (Senate Bill 167), Chapter 373, Statutes of 2017 (Assembly Bill 678) - Strengthens the HAA by increasing the documentation necessary and the standard of proof required for a local agency to legally defend its denial of low-to-moderate-income housing development projects, and requiring courts to impose a fine of $10,000 or more per unit on local agencies that fail to legally defend their rejection of an affordable housing development project.

Chapter 378, Statutes of 2017 (Assembly Bill 1515) – Establishes a reasonable person standard for determining conformance with local land use requirements.

Chapter 243, Statutes of 2018 (Assembly Bill 3194) -Expands the meaning of zoning consistency to include projects that are consistent with general plan designations but not zoning designation on a site if that zone is inconsistent with the general plan.

Chapter 654, Statutes of 2019 (Senate Bill 330) - Defined previously undefined terms such as objective standards and complete application and set forth vesting rights for projects that use a new pre-application process. Most of these provisions sunset on January 1, 2025, unless extended by the Legislature and Governor.

If you have any questions, or would like additional information or technical assistance, please contact the Division of Housing Policy Development at (916) 263-2911.

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What is the Housing Accountability Act?

The Housing Accountability Act (HAA) (Government Code Section 65589.5), establishes the state's overarching policy that a local government may not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards. Before doing any of those things, local governments must make specified written findings based upon a preponderance of the evidence that a specific, adverse health or safety impact exists. Legislative intent language indicates that the conditions that would give rise to such a specific, adverse impact upon the public health and safety would occur infrequently.

Subdivision (d) of the HAA describes requirements applicable to housing development projects that include units affordable to very- low, low- and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments. Subdivisions (k), (l), and (m) expand the potential consequences for violations of the HAA. In 2017, the Legislature also granted the California Department of Housing and Community Development (HCD) authority to refer HAA violations to the Office of the Attorney General in Government Code section 65585.

The HAA was originally enacted in 1982 to address local opposition to growth and change. Communities resisted new housing, especially affordable housing, and, consequently, multiple levels of discretionary review often prevented or delayed development. As a result, developers had difficulty ascertaining the type, quantity, and location where development would be approved. The HAA was intended to overcome the lack of certainty developers experienced by limiting local governments' ability to deny, make infeasible, or reduce the density of housing development projects.

Recognizing that the HAA was falling short of its intended goal, in 2017, 2018, and again in 2019, the Legislature amended the HAA no less than seven times to expand and strengthen its provisions. Key restrictions on local governments' ability to take action against housing development projects are set out in Government Code section 65589.5, subdivisions (d) and (j). The law was amended by Chapter 368 Statutes of 2017 (Senate Bill 167), Chapter 373 Statutes of 2017 (Assembly Bill 678) and Chapter 378 Statutes of 2017 (Assembly Bill 1515), as part of the California 2017 Housing Package. The law was further amended by Chapter 243, Statutes of 2018 (Assembly Bill 3194) and Chapter 654, Statutes of 2019 (Senate Bill 330).

Why Do We Need the Housing Accountability Act?

The Housing Accountability Act has been in effect since 1982. Since that time, California's housing supply has not kept up with population and job growth, and the affordability crisis has grown significantly due to an undersupply of housing, which compounds inequality and limits economic and social mobility. Housing is a fundamental component of a healthy, equitable community. Lack of adequate housing hurts millions of Californians, stifles economic opportunities for workers and businesses, worsens poverty and homelessness, and undermines the state's environmental and climate goals and compounds the racial equity gaps faced by many communities across the state.

The legislative intent of the HAA was to limit local governments' ability to deny, make infeasible, or reduce the density of housing development projects. After determining that implementation of the HAA was not meeting the intent of the statute, the Legislature has amended the HAA to expand its provisions, strengthening the law to meaningfully and effectively curb the capacity of local governments to deny, reduce the density or render housing development projects infeasible.

Legislative Housing Accountability Act Interpretation Guidance

"It is the policy of the state that this section (HAA) should be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." Government Code Section 65589.5 (a)(2)(L)

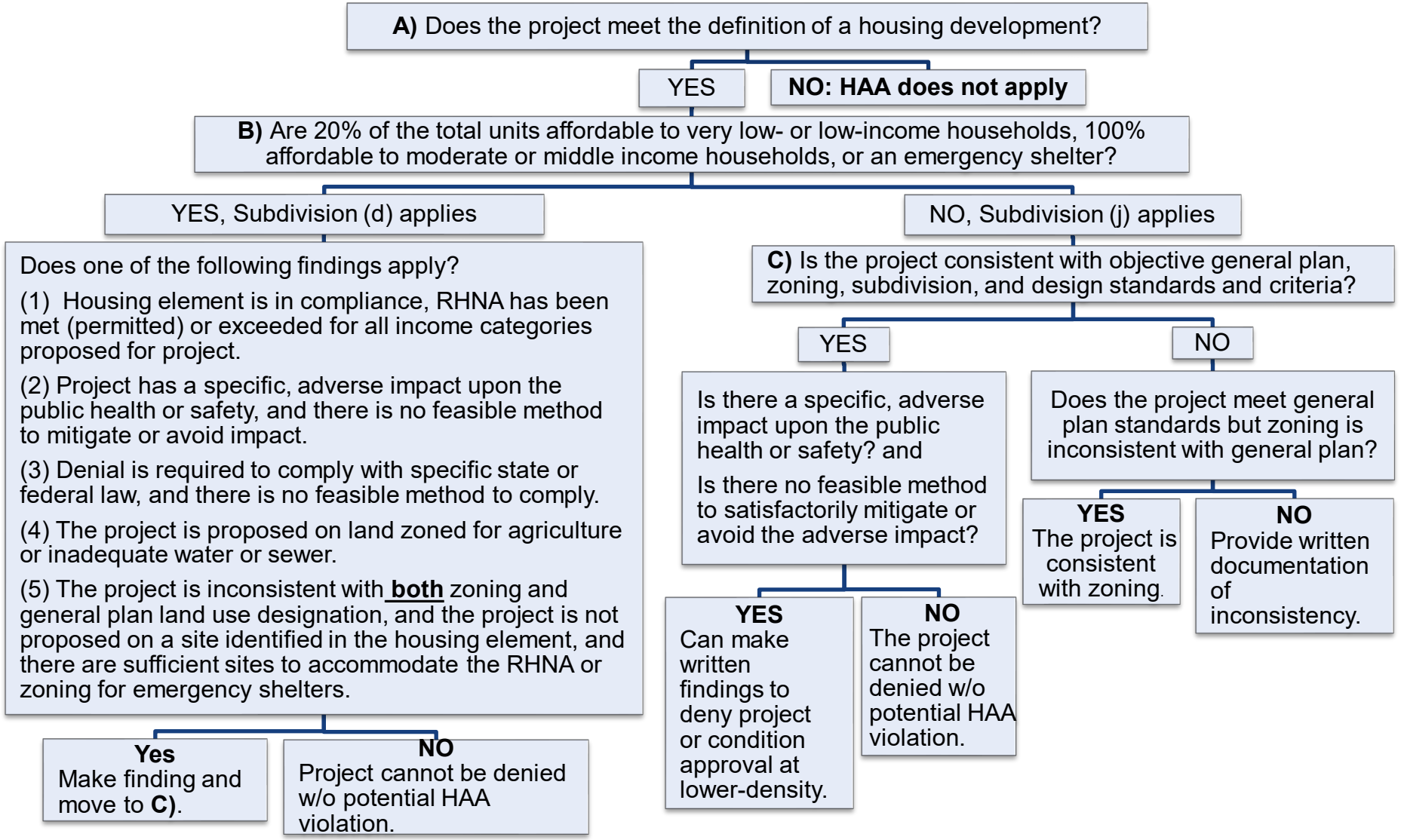
The following are findings and declarations found in the HAA pursuant to Government Code sections 65589.5(a):

- The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.
- California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.
- Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.
- Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.
- California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

- While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.
- The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.
- According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.
- California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.
- Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.
- The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.
- When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.
- An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.
- California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

Housing Accountability Act Decision Matrix

This decision tree generally describes the components of the HAA. Both affordable and market-rate developments are protected by components of the HAA. The statute contains detailed requirements that affect the applicability of the HAA to a specific housing project based on its characteristics.



Key Provisions of the Housing Accountability Act

The HAA sets out restrictions on local governments' ability to take action against housing development projects in Government Code section 65589.5, subdivisions (d) and (j). Subdivision (d) describes requirements applicable to housing development projects that include units affordable to very-low, low-, and moderate-income households (including transitional and supportive housing) as well as emergency shelters and farmworker housing. Subdivision (j) describes requirements applicable to all housing development projects, including both market-rate and affordable housing developments[1]. In sum, the HAA significantly limits the ability of a local government to deny an affordable or market-rate housing project that is consistent with planning and zoning requirements. This table describes the various component parts of the HAA for ease of reference.

Topic	Subdivisions of Government Code Section 65589.5
Declarations and legislative intent	(a), (b), (c)
Provisions for housing affordable to very low, low-, or moderate-income households, or an emergency shelter	(d), (i)
Applicability of the statute to coastal zones, local laws, and charter cities	(e), (f), (g)
Definitions	(h)
Provisions relating to all housing developments	(j)
Consequences for violation	(k), (l), (m), (n)
Vesting rights for pre-applications (SB 330)	(o)

The following is an overview of key provisions of the HAA focusing on project qualifications, applicability of local standards, provisions that relate to all housing projects, provisions that relate just to housing affordable to lower- and moderate-income households and emergency shelters, and consequences for violation of the HAA. Appendix A includes a list of definitions of terms referenced throughout the HAA and Appendix B includes information related to the Preliminary Application Process pursuant to Senate Bill 330.

Housing Development Project Qualifications

In order for a development to qualify for the protections under the HAA it must meet the definition of a "housing development project". Furthermore, for a project to qualify for the affordable housing protections, it must also meet the definition of "Housing for very low-, low-, or moderate-income households".

[1] *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1072-1073

Housing Development Project Definition

Government Code, § 65589.5, subdivision (h)(2).

A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development must consist of more than one unit to qualify under the HAA. The development can consist of attached or detached units and may occupy more than one parcel, so long as the development is included in the same development application.

Housing for Very Low, Low-, or Moderate-Income Households

Government Code, § 65589.5, subdivision (h)(3).

In order to qualify as a housing development affordable to lower- or moderate- income households, the project must meet one of the following two criteria:

- At least 20 percent of the total units shall be sold or rented to lower income households. Lower-income households are those persons and families whose income does not exceed that specified by Health and Safety Code, § 50079.5, 80 percent of area median income.
- 100 percent of the units shall be sold or rented to persons and families of moderate income, or persons and families of middle income. Moderate-income households are those persons and families whose incomes are 80 percent to 120 percent of area median income (Health and Safety Code, § 50093.) Middle-income households are those persons and families whose income does not exceed 150 percent of area median income (Gov. Code, § 65008 subd. (c).)

In addition, the rental or sales prices of that housing cannot exceed the following standards:

- Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based.
- Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

Housing Developments Applying for the Streamlined Ministerial Approval Process Pursuant to Government Code Section 65913.4.

To facilitate and expedite the construction of housing, Chapter 366, Statutes of 2017 (SB 35, Wiener) established the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need (RHNA). Recent amendments to the law clarified that projects utilizing the Streamlined Ministerial Approval Process qualify for the protections under the HAA (Gov. Code, § 65913.4, subd. (g)(2).)

Applicability of Local Standards

In addition to limiting the conditions for which a housing development project can be denied, the HAA also sets parameters around aspects of the approval process. Specifically, it defines:

- The type of development standards, conditions, and policies with which a housing development or emergency shelter can be required to comply
- Parameters for fees and exactions that can be imposed
- Standards that can be applied once an application is deemed complete
- Actions by a local government that would constitute a denial of a project or impose development conditions

These requirements are intended to provide developers with greater transparency and clarity in the entitlement process.

Objective Development Standards, Conditions, Policies, Fees, and Exactions
Government Code, § 65589.5, subdivision (f)

Local governments are not prohibited from requiring a housing development project or emergency shelter to comply with objective, quantifiable, written development standards, conditions, and policies (subject to the vesting provisions of the HAA and other applicable laws). However, those standards, conditions, and policies must meet the following criteria:

- Be appropriate to, and consistent with, meeting the local government's share of the RHNA or meeting the local government's need for emergency shelters as identified in the housing element of the general plan.
- Be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development or to facilitate and accommodate the development of the emergency shelter project.
- Meet the definition of "objective". Objective standards are those that involve no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

The intent of these provisions of the HAA is that developers are given certainty in what standards, conditions, and policies apply to their project and how those standards can be met. Local governments that deny a project due to a failure to meet subjective standards (those standards that are not objective as defined) could be in violation of the HAA. In addition, objective standards that do apply should make it feasible for a developer to build to the density allowed by the zoning and not constrain a local government's ability to achieve its RHNA housing targets.

Nothing in the statute generally prohibits a local government from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter. However, the HAA does impose limitations on the fees and exactions that can be imposed on a specific housing development project once a preliminary application is submitted (see Appendix C).

Determination of Application Completeness
Government Code, § 65589.5, subdivisions (d)(5), (h)(5) and (9), and (j)(1).

The process of submitting an application for a housing development project can be iterative. For example, applications that are missing information cannot be fully evaluated by a local government for compliance with local objective standards. Therefore, an application is not typically processed until it is "determined to be complete". The HAA currently uses two terms related to completeness, "deemed complete" and "determined to be complete."

Deemed Complete: For the purposes of the HAA, until January 1, 2025, "deemed complete" means the date on which a preliminary application was submitted under the provisions of Government Code section 65941.1. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the full information required by the local government for a housing development application. Submittal of this information allows a housing developer to "freeze" the applicable standards for their project while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, potentially adding costs to a project. No affirmative determination by a local government regarding the completeness of a preliminary application is required. (See Appendix C).

The term "deemed complete" triggers the "freeze date" for applicable development standards, criteria, or condition that can be applied to a project. Changes to the zoning ordinance, general plan land use designation, standards, and criteria, subdivision ordinance, and design review standards, made subsequent to the date the housing development project preliminary application was "deemed complete", cannot be applied to a housing development project or used to disapprove or condition approval of the project.

However, if the developer does not submit a preliminary application, the standards that must be applied are those that are in effect when the project is determined to be complete under the Permit Streamlining Act (Gov. Code § 65943).

Determined to be complete: Until January 1, 2025, the full application is "determined to be complete" when it is found to be complete under the Permit Streamlining Act (Gov. Code § 65943). This phrase triggers the timing provisions for the local government to provide written documentation of inconsistency with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision (see page 10 below for inconsistency determinations).

Completeness Determination of Development Application

Government Code section 65943 states that local governments have 30 days after an application for a housing development project is submitted to inform the applicant whether or not the application is complete. If the local government does not inform the applicant of any deficiencies within that 30-day period, the application will be "deemed complete", even if it is deficient.

If the application is determined to be incomplete, the local government shall provide the applicant with an exhaustive list of items that were not complete pursuant to the local government's submittal requirement checklist. Information not included in the initial list of deficiencies in the application cannot be requested in subsequent reviews of the application.

A development applicant who submitted a preliminary application has 90 days to complete the application after receiving notice that the application is incomplete, or the preliminary application will expire. Each time an applicant resubmits new information, a local government has 30 calendar days to review the submittal materials and to identify deficiencies in the application.

Please note, Government Code section 65943 is triggered by an application submitted with all of the requirements on lists compiled by the local government and available when the application was submitted that specifies in detail the information that will be required from any applicant for a development project pursuant to Government Code section 65940. This is not the "preliminary application" referenced in Government Code section 65941.1.

Triggers for a Disapproval of a Housing Development Project
Government Code, § 65589.5, subdivisions (h)(6)

The HAA does not prohibit a local government from exercising its authority to disapprove a housing development project, but rather provides limitations and conditions for exercising that authority. The HAA defines disapproval as when the local government takes one of the following actions:

- Votes on a proposed housing development project application and the application is disapproved. This includes denial of other required land use approvals or entitlements necessary for the issuance of a building permit. Examples include, but are not limited to, denial of the development application, tentative or final maps, use permits, or design review. If the project is using the Streamlined Ministerial Approval Process, disapproval of the application would trigger the provisions of the HAA.
- Fails to comply with decision time periods for approval or disapproval of a development application[2]. Until 2025, the following timeframes apply:
    - 90 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project.
    - 60 days after certification of an environmental impact report (prepared pursuant to the California Environmental Quality Act) by the lead agency for a housing development project where at least 49 percent of the units in the development project are affordable to very low or low-income households[3], and where rents for the lower income units are set at an affordable rent[4] for at least 30 years and owner-occupied units are available at an affordable housing cost[5], among other conditions (see Gov Code § 65950).
    - 60 days from the date of adoption by the lead agency of a negative declaration.
    - 60 days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act.

[2] Timeframes are pursuant to Government Code section 65950
[3] As defined by Health and Safety Code sections 50105 and 50079.5
[4] Pursuant to Section 50053 of the Health and Safety Code
[5] Pursuant to Section 50052.5 of the Health and Safety Code

Imposition of Development Conditions

Government Code, § 65589.5, subdivisions. (d), (h)(7), and (i)

Like the ability to deny a project, the HAA does not prohibit a local government from exercising its authority to condition the approval of a project, but rather provides limitations and conditions for the application of certain conditions. Specifically, the HAA limits the application of conditions that lower the residential density of the project, and, for housing affordable to lower- and moderate-income households and emergency shelters, conditions that would have a substantial adverse impact on the viability or affordability of providing those units unless specific findings are made and supported by a preponderance of the evidence in the record[6].

For purposes of the HAA, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing. This could include a condition that directly lowers the overall number of units proposed (e.g., the development proposes 50 units, but the local government approves only 45 units). It could also include indirect conditions that result in a lower density (e.g., a development proposes 50 units at 800 square feet per unit but the local government conditions the approval on the provision of 850 square feet per unit, resulting in the project having to provide fewer units to accommodate the increase in square footage). Another example would be a reduction in building height that would result in the project being able to provide fewer units than originally proposed.

Local governments must also consider if imposed conditions of approval would have an adverse effect on a project's ability to provide housing for very low-, low-, or moderate-Income households at the affordability levels proposed in the housing development project. This includes provisions that would render the project for very low-, low-, or moderate-income households infeasible or would have a substantial adverse effect on the viability or affordability of the proposed housing. For example, project approval for an affordable housing development might be conditioned on the need to use specific materials that significantly increase the cost of the project. This additional cost could either render the project financially infeasible altogether or require substantial changes to the affordability mix of the units where fewer very low-income units could be provided. In these cases, it is possible that the conditions would violate the HAA.

Conditions that should be analyzed for their effect on density and project feasibility (for affordable projects) include, but are not limited to, the following:

- Design changes
- Conditions that directly or indirectly lower density
- Reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning.

[6] See Page13 for more information on the preponderance of the evidence standard.

Housing Accountability Act Provisions That Apply to All Housing Projects

The following provisions apply to all housing development projects regardless of affordability.

Determination of Consistency with Applicable Plans, Standards, or Other Similar Provision Based on the Reasonable Person Standard

Government Code, § 65589.5, subdivision (f)(4)

A key component of the HAA is the determination as to whether or not the proposed housing development project is consistent, compliant and in conformity with all applicable plans, programs, policies, ordinances, standards, requirements, and other similar provisions.

Traditionally, this determination is made by local government, which is given significant deference to interpret its own plans, programs, policies, ordinances, standards, requirements, and other similar provisions. In most planning and zoning matters, courts traditionally uphold an agency's determination if there is "substantial evidence" to support that determination. If substantial evidence supports the agency's decision, an agency can reach a conclusion that a development project is inconsistent with applicable provisions, even if there is evidence to the contrary.

Departing from these traditional rules, the HAA sets forth its own standard for determining consistency with local government rules for housing development projects and emergency shelters. A housing development project or emergency shelter is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that could allow *a reasonable person* to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity with applicable standards and requirements. The intent of this provision is to provide an objective standard and increase the likelihood of housing development projects being found consistent, compliant and in conformity.

Applicability of Density Bonus Law

Government Code, § 65589.5, subdivision (j)(3)

The receipt of a density bonus pursuant to Density Bonus Law (Government Code § 65915) does not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. Receipt of a density bonus can include a bonus in number of units, incentives, concessions, or waivers to development standards allowed under Density Bonus Law.[7]

General Plan and Zoning Consistency Standard

Government Code, § 65589.5, subdivision (j)(4)

For various reasons, there is at times inconsistency between standards in a general plan and zoning standards. For example, a local government may have amended the general plan, but

[7] Please note pursuant to Government Code § 65915, subd. (f) a receipt of a density bonus does not require an increase in density. An applicant can elect to ask for just the concessions, incentives, and waivers that the project qualifies for under State Density Bonus Law.

has not yet amended all of its municipal ordinances to assure vertical consistency[8]. Recognizing this, the HAA clarifies that if the zoning standards and criteria are inconsistent with applicable, objective general plan standards, but the development project is consistent with the applicable objective general plan standards for the site, then the housing development project cannot be found inconsistent with the standards and criteria of the zoning. Further, if such an inconsistency exists, the local agency may not require rezoning prior to housing development project approval.

However, the local agency may require the proposed housing development project to comply with the objective standards and criteria contained elsewhere in the zoning code that are consistent with the general plan designation. For example, if a site has a general plan land use designation of high density residential, but the site is zoned industrial, then a local government can require the project to comply with objective development standards in zoning districts that are consistent with the high density residential designation, such as a multifamily high density residential zone.

However, under the HAA, the standards and criteria determined to apply to the project must facilitate and accommodate development at the density allowed the general plan on the project site and as proposed by the housing development project.

Written Notification of Inconsistency
Government Code, § 65589.5, subdivision (j)(2)

If a local government considers a proposed housing development project to be inconsistent, non-compliant, or not in conformity with any applicable plan, program, policy, ordinance, standard, requirement, or other similar provision, the local government must provide written notification and documentation of the inconsistency, noncompliance, or inconformity. This requirement applies to all housing development projects, regardless of affordability level. The documentation must:

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.
- Be provided to the applicant within 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- Be provided to the applicant within 60 days of a project application being deemed complete for projects containing over 150 units.

Consequence for Failure to Provide Written Documentation

If the local government fails to provide the written documentation within the required timeframe, the housing development project is deemed consistent, compliant and in conformity with applicable plans, programs, policies, ordinances, standards, requirements, or other similar provisions.

[8] Pursuant to Government Code § 65860, city and county, including a charter city, zoning ordinances must be consistent with the adopted general plan. This is known as vertical consistency.

Denial of a Housing Project that is Consistent with Applicable Plans, Standards, or Other Similar Provisions Based on the Preponderance of the Evidence Standard
Government Code, § 65589.5, subdivision (j)(1)

When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.

A **"specific, adverse impact"** means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Pursuant to Government Code section 65589.5 (a)(3) it is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety arise infrequently.

An example of a condition that does not constitute a specific, adverse impact would be criteria that requires a project to conform with "neighborhood character". Such a standard is not quantifiable and therefore would not meet the conditions set forth under the HAA.

- There is no feasible method to satisfactorily mitigate or avoid the adverse impact, other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

Preponderance of the Evidence Standard

In most actions, a local government is tasked with making findings or determinations based on "substantial evidence." Under the substantial evidence standard, local government is merely required to find reasonable, adequate evidence in support of their findings, even if the same or *even more* evidence supports a finding to the contrary.

Findings or determinations based on a "preponderance of the evidence" standard require that local governments weigh the evidence and conclude that the evidence on one side outweighs, preponderates over, is more than the evidence on the other side, not necessarily in the number or quantity, but in its convincing force upon those to whom it is addressed[9]. Evidence that is substantial, but not a preponderance of the evidence, does not meet this standard.

[9] People v. Miller (1916) 171 Cal. 649, 652. Harris v. Oaks Shopping Center (1999) 70 Cal.App.4th 206, 209 ("'Preponderance of the evidence' means evidence that has more convincing force than that opposed to it.").

Provisions Related to Housing Affordable to Very Low-, Low-, or Moderate-Income Household, Emergency Shelters, and Farmworker Housing

State Policy on Housing Project Approval

"It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article (RHNA) without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d)" Government Code, § 65589.5, subdivision (b).

The HAA provides additional protections for projects that contain housing affordable to very low-, low- or moderate-income households, including farmworker housing, or emergency shelters. State policy prohibits local governments from rejecting or otherwise making infeasible these types of housing development projects, including emergency shelters, without making specific findings.

Denial or Conditioning of Housing Affordable to Very Low-, Low- or Moderate-Income Households, Including Farmworker Housing, or Emergency Shelters
Government Code, § 65589.5, subdivision (d) and (i)

The HAA specifies findings that local governments must make, in addition to those in the previous section, if they wish to deny a housing development affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters. These requirements also apply when a local government wishes to condition such a project in a way that it would that render it infeasible or would have a substantial adverse effect on the viability or affordability of a housing development project for very low-, low-, or moderate-income households. In addition to the findings, described above, that apply to all housing development projects, a local government must also make specific findings based upon the preponderance of the evidence of one of the following:

(1) The local government has an adopted housing element in substantial compliance with California's Housing Element Law, contained in Article 10.6 of Government Code, *and* has met or exceeded development of its share of the RHNA in all income categories proposed in the housing development project. In the case of an emergency shelter, the local government shall have met or exceeded the need for emergency shelters as identified in the housing element. This requirement to meet or exceed its RHNA is in relationship to units built in the local government, not zoning. A local government's housing element Annual Progress Report pursuant to Government Code section 65400 can be used to demonstrate progress towards RHNA goals.

(2) The housing development project would have a specific, adverse impact upon public health or safety and there is no feasible method to mitigate or avoid the impact without rendering the housing development project unaffordable or financially infeasible. Specific to housing development projects affordable to very low-, low-, or moderate-income housing (including farmworker housing) or emergency shelters, specific, adverse impacts do not include inconsistency with the zoning ordinance or general plan land use designation or eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

(3) Denial of the housing development project or the imposition of conditions is required to comply with specific state or federal law, *and* there is no feasible method to comply without

rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project is proposed on land zoned for agriculture or resource preservation that is either: (a) surrounded on two sides by land being used for agriculture or resource preservation; or (b) does not have adequate water or wastewater facilities to serve the housing development project.

(5) The housing development project meets both the following conditions:

- Is inconsistent with both the local government's zoning ordinance and the general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete. This means this finding cannot be used in situations where the project is inconsistent with one (e.g., the general plan designation), but is consistent with the other (e.g., zoning ordinance).
- The local government has an adopted housing element in substantial compliance with housing element Law.

  Finding (5) *cannot* be used when any of the following occur:

  - The housing development project is proposed for a site identified as suitable or available for very low-, low-, or moderate-income households within a housing element and the project is consistent with the specified density identified in the housing element.
  - The local government has failed to identify sufficient adequate sites in its inventory of available sites to accommodate its RNHA, and the housing development project is proposed on a site identified in any element of its general plan for residential use or in a commercial zone where residential uses are permitted or conditionally permitted.
  - The local government has failed to identify a zone(s) where emergency shelters are allowed without a conditional use or other discretionary permit, or has identified such zone(s) but has failed to demonstrate that they have sufficient capacity to accommodate the need for emergency shelter(s), and the proposed emergency shelter is for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses.

Any of these findings must be based on a preponderance of the evidence. For details, see "Preponderance of the evidence standard" on page 12 for further information.

Violations of Housing Accountability Act

The courts are the primary authority that enforces the HAA. Actions can be brought by eligible plaintiffs and petitioners to the court for potential violations of the law. Similarly, HCD under Government Code section 65585 (j), can find that a local government has taken an action in violation of the HAA. In that case, after notifying a local government of the violation, HCD would refer the violation to the Office of the Attorney General who could file a petition against a local government in the Superior Court.

Eligible Plaintiffs and Petitioners

Government Code, § 65589.5, subdivision (k)(1)(A) and (k)(2)

The applicant, a person eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring action to enforce the HAA. A housing organization, however, may only file an action to challenge the disapproval of the housing development project and must have filed written or oral comments with the local government prior to its action on the housing development project.

"Housing organizations" means a trade or industry group engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households. A housing organization is entitled to reasonable attorney fees and costs when prevailing in an action. Labor unions, building associations, multifamily apartment management companies, and legal aid societies are examples of housing organizations.

Remedies

Government Code, § 65589.5, subdivision (k)(1)(A)

If the plaintiff or petitioner prevails, the court must issue an order compelling compliance with the HAA within 60 days. The court's order would at a minimum require the local agency to take action on the housing development project or emergency shelter during that time period. The court is further empowered to issue an order or judgment that actually directs the local government to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. "Bad faith" includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

If the plaintiff or petitioner prevails, the court shall award reasonable attorney fees and costs of the suit to the plaintiff or petitioner for both affordable and market-rate housing development projects,[10] except in the "extraordinary circumstances" in which the court finds that awarding fees would not further the purposes of the HAA.

Local Agency Appeal Bond

Government Code, § 65589.5, subdivision (m)

If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant. In this provision, the Legislature has waived, to some degree, the immunity from damages that normally extends to local agencies, recognizing that the project applicant incurs costs due to the delay of its project when a local agency appeals. (Contrast Gov. Code, § 65589.5, subd. (m), with Code Civ. Proc., § 995.220, subd. (b) [local public entities do not have to post bonds].)

[10] / *Honchariw v. County of Stanislaus* (2013) 218 Cal.App.4th 1019, 1023–1024, which ruled to the contrary, was superseded by statutory changes in Senate Bill 167 (Stats. 2017, ch. 368, § 1), Assembly Bill 678 (Stats. 2017, ch. 373, § 1), and Senate Bill 330 (Stats. 2019, ch. 654, § 3).

Failure to Comply with Court Order

Government Code, § 65589.5, subdivision (k)(1)(B)(i), (k)(1)(C), and (l)

If the local government fails to comply with the order or judgment within 60 days of issuance, the court must impose a fine on the local government. The *minimum* fine that may be imposed is $10,000 per housing unit in the housing development project as proposed on the date the application was deemed complete. Please note, the use of the term "deemed complete" in this instance has the same meaning as "determined to be complete" as referenced on page 7. The monies are to be deposited into the State's Building Homes and Jobs fund or the Housing Rehabilitation Loan fund. In calculating the amount of the fine in excess of the minimum, the court is directed to consider the following factors:

- The local government's progress in meeting its RHNA and any previous violations of the HAA.
- Whether the local government acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA. If the court finds that the local government acted in bad faith, the total amount of the fine must be multiplied by five.

The court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and an order to approve the housing development project.

Court-Imposed Fines

Court-imposed fines begin at $10,000 per housing unit and could be much higher. If the court determines the local government acted in bad faith, the fine is multiplied by five. This equates to a minimum fine of $50,000 per unit.

Bad faith includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. For example, in a recent Los Altos Superior Court order, the court issued an order directing the local agency to approve the housing development project and found that the local agency acted in bad faith when it disapproved the housing development because its denial was entirely without merit. The city's denial letter did not reflect that the city made a benign error in the course of attempting, in good faith, to follow the law by explaining to the developer how the project conflicted with objective standards that existed at the time of application; instead, the city denied the application with a facially deficient letter, employed strained interpretations of statute and local standards, and adopted a resolution enumerating insufficient reasons for its denial[11]. Bad faith can be demonstrated through both substantive decisions and procedural actions. In the Los Altos case, the court found that demanding an administrative appeal with less than a days' notice revealed bad faith. Repeated, undue delay may likewise reveal bad faith.

[11] Order Granting Consolidated Petitions for Writ of Mandate, 40 Main Street Offices, LLC v. City of Los Altos et al. (Santa Clara Superior Court Case No. 19CV349845, April 27, 2020), p. 38

APPENDIX A: Frequently Asked Questions

What types of housing development project applications are subject to the Housing Accountability Act (HAA)?

The HAA applies to both market rate and affordable housing development projects. (*Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, 1073.) It applies to housing development projects that consist of residential units and mixed-use developments when two-thirds or more of the square footage is designated for residential use. It also applies to transitional housing, supportive housing, farmworker housing, and emergency shelters. (Gov. Code, § 65589.5, subds. (d) and (h)(2).)

Does the Housing Accountability Act apply to charter cities?

Yes, the HAA applies to charter cities (Gov. Code, § 65589.5, subd. (g).)

Does the Housing Accountability Act apply to housing development projects in coastal zones?

Yes. However, local governments must still comply with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code) (Gov. Code, § 65589.5, subd. (e).)

Are housing developments still subject to the California Environmental Quality Act (CEQA) if they qualify for the protections under the Housing Accountability Act?

Yes. Jurisdictions are still required to comply with CEQA (Division 13 (commencing with Section 21000) of the Public Resources Code) as applicable to the project. (Gov. Code, § 65589.5, subd. (e).)

Does the California Department of Housing and Community Development have enforcement authority for the Housing Accountability Act?

Yes. HCD has authority to find that a local government's actions do not substantially comply with the HAA (Gov. Code, § 65585, subd. (j)(1).) In such a case, HCD may notify the California State Attorney General's Office that a local government has taken action in violation of the HAA.

If approval of a housing development project triggers the No-Net Loss Law, may a local government disapprove the project?

No. Triggering a required action under the No-Net Loss Law is not a valid basis to disapprove a housing development project. (Gov. Code, § 65863, subd. (c)(2).) The only valid reasons for disapproving a housing development project are defined in the HAA under subdivisions (d) and (j). Subdivision (j) contains requirements that apply to all housing development projects; subdivision (d) contains additional requirements for housing development projects for very low-, low- or moderate-income households or emergency shelters.

Does the Housing Accountability Act apply to a residential development project on an historic property?

Yes. The HAA does not limit the applicability of its provisions based on individual site characteristics or criteria. The local government may apply objective, quantifiable, written development standards, conditions, and policies related to historic preservation to the housing development project, so long as they were in effect when the application was deemed

complete[12]. The standards should be appropriate to, and consistent with, meeting the local government's regional housing need and facilitate development at the permitted density. (Gov. Code, § 65589.5, subd. (f)(1).) However, it should be noted that compliance with historic preservation laws may otherwise constrain the approval of a housing development.

Under the Housing Accountability Act, is the retail/commercial component of a mixed-use project subject to review when the housing component must be approved?

Yes. The local government may apply objective, quantifiable, written development standards, conditions and policies to the entirety of the mixed-use project, so long as they were in effect when the application was deemed complete. (Gov. Code, § 65589.5, subd. (f)(1).)

Does the Housing Accountability Act apply to subdivision maps and other discretionary land use applications?

Yes. The HAA applies to denials of subdivision maps and other discretionary land use approvals or entitlements necessary for the issuance of a building permit (Gov. Code, § 65589.5, subd (h)(6).)

Does the Housing Accountability Act apply to applications for individual single-family residences or individual Accessory Dwelling Units (ADUs)?

No. A "housing development project" means a use consisting of residential units only, mixed use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, or transitional or supportive housing. Because the term "units" is plural, a development has to consist of more than one unit to qualify under the HAA (Gov. Code, § 65589.5, subd. (h)(2).).

Does the Housing Accountability Act apply to an application that includes both a single-family residence and an Accessory Dwelling Unit?

Yes. Since an application for both a single-family residence and an ADU includes more than one residential unit, the HAA applies (Gov. Code, § 65589.5, subd. (h)(2).)

Does the Housing Accountability Act apply to an application for a duplex?

Yes. Since an application for a duplex includes more than one residential unit, the HAA applies. (Gov. Code, § 65589.5, subd. (h)(2).)

Does the Housing Accountability Act apply to market-rate housing developments?

Yes. Market-rate housing developments are subject to the HAA (Gov. Code, § 65589.5, subd. (h)(2).) In *Honchariw v. County of Stanislaus* (2011) 200 Cal.App.4th 1066, the court found the definition of "housing development project" was not limited to projects involving affordable housing and extended to market-rate projects. Market-rate housing development projects are subject to the requirements of paragraph (j) (Gov. Code, § 65589.5, subd. (j).)

[12] For purposes of determination of whether a site is historic, "deemed complete" is used with reference to Government Code §65940. See Government Code § 65913.10.

Under the Housing Accountability Act, if a housing development project is consistent with local planning rules, can it be denied or conditioned on a density reduction?

Yes. However, a local government may deny a housing development that is consistent with local planning rules, or condition it on reduction in density, only under very specific circumstances. (Gov. Code, § 65589.5, subds. (j)(1)(A), (B).) The local government must make written findings based on a preponderance of the evidence that both:

(1) The housing development project would have a specific, adverse impact upon public health or safety unless disapproved or approved at a lower density; and

(2) There is no feasible method to satisfactorily mitigate or avoid the impact.

(See definition of and specific requirements for finding of "specific, adverse impact" discussed below.)

Under the Housing Accountability Act, can a housing development project affordable to very low-, low-, or moderate-income households (including farmworker housing) or emergency shelter that is inconsistent with local planning requirements be denied or conditioned in a manner that renders it infeasible for the use proposed?

Yes, but only under specific circumstances. The local government must make written findings based on a preponderance of the evidence as to specific criteria. However, inconsistency with zoning does not justify denial or conditioning if the project is consistent with the general plan. (See Page 11 for more details). See also Gov. Code, § 65589.5, subds. (d)(1)-(5).)

Is there a definition for "specific, adverse impact" upon public health and safety?

Yes. The HAA provides that a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation is not such a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2) and (j)(1)(A).)

The HAA considers that such impacts would be rare: "It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently." (Gov. Code, § 65589.5, subd. (a)(3).)

Appendix B: Definitions

Area median income means area median income as periodically established by the HCD pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years. (Gov. Code, § 65589.5, subd. (h)(4).)

Bad faith includes, but is not limited to, an action that is frivolous or otherwise entirely without merit. (Gov. Code, § 65589.5, subd. (l).) This definition arises in the context of the action a local government takes when it disapproved or conditionally approved the housing development or emergency shelter in violation of the HAA.

Deemed complete means that the applicant has submitted a preliminary application pursuant to Government Code section 65941.1 (Gov. Code, § 65589.5, subd. (h)(5).) However, in Government Code section 65589.5(k)(1)(B)(i) deemed complete has the same meaning as "Determined to be Complete".

Determined to be complete means that the applicant has submitted a complete application pursuant to Government Code section 65943 (Gov. Code, § 65589.5, subd. (h)(9).)

Disapprove the housing development project means a local government either votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit, or fails to comply with specified timeframes in the Permit Streamlining Act. (Gov. Code, § 65589.5, subd. (h)(5).)

Farmworker housing means housing in which at least 50 percent of the units are available to, and occupied by, farmworkers and their households.

Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Gov. Code, § 65589.5, subd. (h)(1).)

Housing development project means a use consisting of any of the following: (1) development projects with only residential units, (2) mixed-use developments consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use, (3) transitional or supportive housing.

Housing organization means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. (Gov. Code, § 65589.5, subd. (k)(2).) This definition is relevant to the individuals or entities that have standing to bring an HAA enforcement action against a local agency.

Housing for very low-, low-, or moderate-income households means that either:

- At least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or

- One hundred (100) percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code.

Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based. (Gov. Code, § 65589.5, subd. (h)(3).)

Lower density (as used in the sense of "to lower density") means a reduction in the units built per acre. It includes conditions that directly lower density and conditions that effectively do so via indirect means. (Gov. Code, § 65589.5, subd. (h)(7).)

Mixed use means a development consisting of residential and non-residential uses with at least two-thirds of the square footage designated for residential use. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

Objective means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official. (Gov. Code, § 65589.5, subd. (h)(2)(B).)

Regional housing needs allocation (RHNA) means the share of the regional housing needs assigned to each jurisdiction by income category pursuant to Government Code section 65584 though 65584.6.

Specific adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety. (Gov. Code, § 65589.5, subds. (d)(2), (j)(1)(A).) This definition is relevant to the written findings that a local agency must make when it disapproves or imposes conditions on a housing development project or an emergency shelter that conforms with all objective standards. It is the express intent of the Legislature that the conditions that would give rise to a specific, adverse impact upon the public health and safety occur infrequently. (Gov. Code, § 65589.5, subd. (a)(3).)

Appendix C: Preliminary Application (Senate Bill 330, Statutes of 2019)

The Housing Crisis Act of 2019 (Chapter 654, Statutes of 2019 (SB 330)) strengthens protections for housing development projects under the Housing Accountability Act (HAA), Planning and Zoning Law, and the Permit Streamlining Act. The provisions set forth under SB 330 sunset in 2025.

Among other provisions, to increase transparency and certainty early in the development application process, SB 330 allows a housing developer the option of submitting a "preliminary application" for any housing development project. Submittal of a preliminary application allows a developer to provide a specific subset of information on the proposed housing development before providing the complete information required by the local government. Upon submittal of an application and a payment of the permit processing fee, a housing developer is allowed to "freeze" the applicable standards to their project early while they assemble the rest of the material necessary for a full application submittal. This ensures development requirements do not change during this time, adding costs to a project due to potential redesigns due to changing local standards.

Benefits of a Preliminary Application

Government Code, § 65589.5, subdivision (o)

The primary benefit of a preliminary application is that a housing development project is subject only to the ordinances, policies, standard, or any other measure (standards) adopted and in effect when a preliminary application was submitted. "Ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

However, there are some circumstances where the housing development project can be subjected to a standard beyond those in effect when a preliminary application is filed:

- In the case of a fee, charge, or other monetary exaction, an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.
- A preponderance of the evidence in the record establishes that the standard is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
- The standard is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- The housing development project has not commenced construction within two and a-half years following the date that the project received final approval. "Final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:
    - The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition,

request for reconsideration, or legal challenge have been filed. If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

- The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. "Square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations). However, a local government is not prevented from applying the standards in effect at the time of the preliminary application submittal.
- Once a residential project is complete and a certificate of occupancy has been issued, local governments are not limited in the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

Contents of a Preliminary Application

Government Code, § 65941.1

Each local government shall compile a checklist and application form that applicants for housing development projects may use for submittal of a preliminary application. However, HCD has adopted a standardized form that may be used to submit a preliminary application if a local agency has not developed its own application form. The preliminary application form can be found on HCD's website.

The following are the items that are contained in the application form. Local government checklists or forms cannot require or request any information beyond these 17 items.

1. The specific location, including parcel numbers, a legal description, and site address, if applicable.
2. The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.
3. A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.
4. The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.
5. The proposed number of parking spaces.
6. Any proposed point sources of air or water pollutants.
7. Any species of special concern known to occur on the property.
8. Whether a portion of the property is located within any of the following:
    - A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.
    - Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

- A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.
- A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
- A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
- A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.

9. Any historic or cultural resources known to exist on the property.
10. The number of proposed below market rate units and their affordability levels.
11. The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.
12. Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.
13. The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.
14. For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:
    - Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.
    - Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.
    - A tsunami run-up zone.
    - Use of the site for public access to or along the coast.
15. The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.
16. A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.
17. The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

Timing Provisions from Filing of a Preliminary Application to Determination of Consistency with Applicable Standards under the Housing Accountability Act

Step 1: Preliminary Application Submittal GC 65941.1

- Applicant submits preliminary application form.
- Applicant pays permit processing fees.
- No affirmative determination by local government regarding the completeness of a preliminary application is required.

Step 2: Full Application Submittal

- Applicant submits full application within 180 days of preliminary application submittal.
- Application contains all information required by the local government application checklist pursuant to Government Code Sections 65940, 65941, and 65941.5[13].

Step 3: Determination of Application Completeness GC 65943

- Local government has 30 days to determine application completeness and provide in writing both the determination of whether the application is complete and, when applicable, a list of items that were not complete. This list is based on the agency's submittal requirement checklist. If written notice is not provided within 30 days, the application is deemed complete.
- An applicant that has submitted a preliminary application has 90 days to correct deficiencies and submit the material needed to complete the application[14].
- Upon resubmittal, local government has 30 days to evaluate. Evaluation is based on previous stated items and the supplemented or amended materials. If still not correct, the local agency must specify those parts of the application that were incomplete and indicate the specific information needed to complete the application.
- Upon a third determination of an incomplete application, an appeals process must be provided.

Step 4: Application Consistency with Standards (HAA) GC 65589.5

- Identify the specific provision or provisions and provide an explanation of the reason or reasons why the local agency considers the housing development to be inconsistent, non-compliant, or non-conformant with identified provisions.

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[13] Government Codes § 65940, 65941, and 65941.5 require, among other things, a local government to compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Copies of the information shall be made available to all applicants for development projects and to any person who requests the information.

[14] The statute is silent on applications that did not use the preliminary application process. There is no statutory timeline for resubmittal in those instances.

- 30 days of a project application being deemed complete for projects containing 150 or fewer housing units.
- 60 days of a project application being deemed complete for projects containing over 150 units.

Step 5: Other Entitlement Process Requirements Pursuant to SB 330

- Pursuant to Government Code section 65905.5, if a proposed housing development project complies with the applicable, objective general plan and zoning standards, the local government can conduct a maximum of five hearings, including hearing continuances, in connection with the approval of the project. Compliance with applicable, objective general plan and zoning standards has the same meaning and provisions as in the HAA, including circumstances when there is inconsistency between the general plan and zoning.

  A "hearing" includes any public hearing, workshop, or similar meeting conducted by the local government with respect to the housing development project, whether by the legislative body of the city or county, the planning agency, or any other agency, department, board, commission, or any other designated hearing officer or body of the city or county, or any committee or subcommittee thereof. A "hearing" does not include a hearing to review a legislative approval required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.

  However, it should be noted nothing in this requirement supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to CEQA.

- Pursuant to Government Code section 65950, a local government must make a final decision on a residential project within 90 days after certification of an environmental impact report (or 60 days after adoption of a mitigated negative declaration or an environment report for an affordable housing project).

Appendix D: Housing Accountability Act Statute (2020)

GOVERNMENT CODE - GOV
TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]
DIVISION 1. PLANNING AND ZONING [65000 - 66301]

CHAPTER 3. Local Planning [65100 - 65763]
ARTICLE 10.6. Housing Elements [65580 - 65589.11]

65589.5.
(a) (1) The Legislature finds and declares all of the following:

(A) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(B) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(C) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

(2) In enacting the amendments made to this section by the act adding this paragraph, the Legislature further finds and declares the following:

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

(B) While the causes of this crisis are multiple and complex, the absence of meaningful and effective policy reforms to significantly enhance the approval and supply of housing affordable to Californians of all income levels is a key factor.

(C) The crisis has grown so acute in California that supply, demand, and affordability fundamentals are characterized in the negative: underserved demands, constrained supply, and protracted unaffordability.

(D) According to reports and data, California has accumulated an unmet housing backlog of nearly 2,000,000 units and must provide for at least 180,000 new units annually to keep pace with growth through 2025.

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per

capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

(F) Lack of supply and rising costs are compounding inequality and limiting advancement opportunities for many Californians.

(G) The majority of California renters, more than 3,000,000 households, pay more than 30 percent of their income toward rent and nearly one-third, more than 1,500,000 households, pay more than 50 percent of their income toward rent.

(H) When Californians have access to safe and affordable housing, they have more money for food and health care; they are less likely to become homeless and in need of government-subsidized services; their children do better in school; and businesses have an easier time recruiting and retaining employees.

(I) An additional consequence of the state's cumulative housing shortage is a significant increase in greenhouse gas emissions caused by the displacement and redirection of populations to states with greater housing opportunities, particularly working- and middle-class households. California's cumulative housing shortfall therefore has not only national but international environmental consequences.

(J) California's housing picture has reached a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing for all income levels, including this section.

(K) The Legislature's intent in enacting this section in 1982 and in expanding its provisions since then was to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects and emergency shelters. That intent has not been fulfilled.

(L) It is the policy of the state that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.

(3) It is the intent of the Legislature that the conditions that would have a specific, adverse impact upon the public health and safety, as described in paragraph (2) of subdivision (d) and paragraph (1) of subdivision (j), arise infrequently.

(b) It is the policy of the state that a local government not reject or make infeasible housing development projects, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local governments should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

(1) The local government has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the local government has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the local government has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the local government shall be calculated consistently with the forms and definitions that may be adopted by HCD pursuant to Section 65400. In the case of an emergency shelter, the local government shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. The following shall not constitute a specific, adverse impact upon the public health or safety:

(A) Inconsistency with the zoning ordinance or general plan land use designation.

(B) The eligibility to claim a welfare exemption under subdivision (g) of Section 214 of the Revenue and Taxation Code.

(3) The denial of the housing development project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The housing development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The housing development project or emergency shelter is inconsistent with both the local government's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the local government has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the housing development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the local government's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the local government's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and are sufficient to provide for the local government's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Except as provided in subdivision (o), nothing in shall be construed to prohibit a local agency from requiring the housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the local government's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Except as provided in subdivision (o), nothing in shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the local government's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) Except as provided in subdivision (o), nothing in this section shall be construed to prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

(4) For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses with at least two-thirds of the square footage designated for residential use.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this

code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) “Area median income” means area median income as periodically established by the HCD pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) Notwithstanding any other law, until January 1, 2025, “deemed complete” means that the applicant has submitted a preliminary application pursuant to Section 65941.1.

(6) “Disapprove the housing development project” includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved, including any required land use approvals or entitlements necessary for the issuance of a building permit.

(B) Fails to comply with the time periods specified in subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(7) “Lower density” includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(8) Until January 1, 2025, “objective” means involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.

(9) Notwithstanding any other law, until January 1, 2025, “determined to be complete” means that the applicant has submitted a complete application pursuant to Section 65943.

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time housing development project’s the application is complete, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d), and that the findings are supported by a preponderance of the evidence in the record, and with the requirements of subdivision (o).

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the application was deemed complete, but the local agency proposes to disapprove the project or to impose a condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(2) (A) If the local agency considers a proposed housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision as specified in this subdivision, it shall provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity as follows:

(i) Within 30 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains 150 or fewer housing units.

(ii) Within 60 days of the date that the application for the housing development project is determined to be complete, if the housing development project contains more than 150 units.

(B) If the local agency fails to provide the required documentation pursuant to subparagraph (A), the housing development project shall be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(3) For purposes of this section, the receipt of a density bonus pursuant to Section 65915 shall not constitute a valid basis on which to find a proposed housing development project is inconsistent, not in compliance, or not in conformity, with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision specified in this subdivision.

(4) For purposes of this section, a proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria but the zoning for the project site is inconsistent with the general plan. If the local agency has complied with paragraph (2), the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and

accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(k) (1) (A) (i) The applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that any of the following are met, the court shall issue an order pursuant to clause (ii):

(I) The local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(II) The local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence.

(III) (ia) Subject to sub-subclause (ib), the local agency, in violation of subdivision (o), required or attempted to require a housing development project to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

(ib) This subclause shall become inoperative on January 1, 2025.

(ii) If the court finds that one of the conditions in clause(i) is met, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated

to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

(ii) If any money derived from a fine imposed pursuant to this subparagraph is deposited in the Housing Rehabilitation Loan Fund, then, notwithstanding Section 50661 of the Health and Safety Code, that money shall be available only upon appropriation by the Legislature.

(C) If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency and to approve the housing development project, in which case the application for the housing development project, as proposed by the applicant at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed to be approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, “housing organization” means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney’s fees and costs if it is the prevailing party in an action to enforce this section.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court’s order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, shall multiply the fine determined pursuant to subparagraph (B) of paragraph (1) of subdivision (k) by a factor of five. For purposes of this section, “bad faith” includes, but is not limited to, an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any

other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) (1) Subject to paragraphs (2), (6), and (7), and subdivision (d) of Section 65941.1, a housing development project shall be subject only to the ordinances, policies, and standards adopted and in effect when a preliminary application including all of the information required by subdivision (a) of Section 65941.1 was submitted.

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

(A) In the case of a fee, charge, or other monetary exaction, to an increase resulting from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing the fee or other monetary exaction.

(B) A preponderance of the evidence in the record establishes that subjecting the housing development project to an ordinance, policy, or standard beyond those in effect when a preliminary application was submitted is necessary to mitigate or avoid a specific, adverse impact upon the public health or safety, as defined in subparagraph (A) of paragraph (1) of subdivision (j), and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.

(C) Subjecting the housing development project to an ordinance, policy, standard, or any other measure, beyond those in effect when a preliminary application was submitted is necessary to avoid or substantially lessen an impact of the project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(D) The housing development project has not commenced construction within two and one-half years following the date that the project received final approval. For purposes of this subparagraph, "final approval" means that the housing development project has received all necessary approvals to be eligible to apply for, and obtain, a building permit or permits and either of the following is met:

(i) The expiration of all applicable appeal periods, petition periods, reconsideration periods, or statute of limitations for challenging that final approval without an appeal, petition, request for reconsideration, or legal challenge having been filed.

(ii) If a challenge is filed, that challenge is fully resolved or settled in favor of the housing development project.

(E) The housing development project is revised following submittal of a preliminary application pursuant to Section 65941.1 such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(3) This subdivision does not prevent a local agency from subjecting the additional units or square footage of construction that result from project revisions occurring after a preliminary application is submitted pursuant to Section 65941.1 to the ordinances, policies, and standards adopted and in effect when the preliminary application was submitted.

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

(5) This subdivision shall not be construed in a manner that would lessen the restrictions imposed on a local agency, or lessen the protections afforded to a housing development project, that are established by any other law, including any other part of this section.

(6) This subdivision shall not restrict the authority of a public agency or local agency to require mitigation measures to lessen the impacts of a housing development project under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(7) With respect to completed residential units for which the project approval process is complete and a certificate of occupancy has been issued, nothing in this subdivision shall limit the application of later enacted ordinances, policies, and standards that regulate the use and occupancy of those residential units, such as ordinances relating to rental housing inspection, rent stabilization, restrictions on short-term renting, and business licensing requirements for owners of rental housing.

(8) This subdivision shall become inoperative on January 1, 2025.

(p) This section shall be known, and may be cited, as the Housing Accountability Act.

Housing Accountability Act Decision Matrix

This decision tree generally describes the components of the HAA. Both affordable and market-rate developments are protected by components of the HAA. The statute contains detailed requirements that affect the applicability of the HAA to a specific housing project based on its characteristics.