

CITY OF LAGUNA HILLS



Supplemental Agenda Material Memo

Supplemental Agenda Materials related to an item on a City Council Agenda, submitted to the City Council after distribution of the agenda packet, will be available for public inspection at the same time the materials are distributed to the City Council. Supplemental Agenda Materials are available for inspection during normal business hours in the City Clerk's office located at 24035 El Toro Road, Laguna Hills, California. In addition, such materials will be made available for public review at the same time the materials are distributed to the City Council on the City's website at: <https://lagunahillsca.portal.civicclerk.com/> and at the respective public meeting.

DATE: September 22, 2025

TO: City Council
City Staff

FROM: Jennifer Lee, City Clerk

SUBJECT: Agenda Item No. 5.5.2 – Site Development Permit (SDP)/Parking Use Permit (PUP) No. USE-0147-2023, a Request by Nick Buchanan, on Behalf of La Paz Village Investors, LLC, for Approval of a 180-Unit Senior Living Development With a 253-Stall Parking Structure on an Approximately 2.55 Gross Acre Parcel Located at 25254 and 25260 La Paz Road (APN No. 620-211-17) Within the La Paz Village Center, Generally Located at 25250 – 25260, 25732, 25758 La Paz Road

Nick Buchanan of La Paz Village, LLC, applicant for the La Paz Village senior housing project provided the attached architectural renderings of the project.

Attachments:

La Paz Village Architectural Renderings









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DATE: September 23, 2025

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City Staff

FROM: Jennifer Lee, City Clerk

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The conditions of approval included in the proposed Resolution for Public Hearing Item No. 5.5.2 have been revised. Please consider the attached revised version of the conditions of approval when making a motion or casting your vote for the public hearing item.

Attachments:

La Paz Village Revised Conditions of Approval – REDLINES
La Paz Village Revised Conditions of Approval - CLEAN

USE-0147-2023 – La Paz Village Conditions of Approval

1. The following Conditions of Approval (“Conditions”) shall be binding and enforceable against, and, whenever used herein, the term “Applicant” shall mean and refer to, each of the following: the project applicant, Nick Buchanan, on behalf of La Paz Village Investors, LLC, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns.
2. Unless the context dictates otherwise, whenever the term “this Permit” is used in the following Conditions of Approval, it shall collectively refer to USE-0147-2023 (SDP/PUP) approved pursuant to this Resolution. The City reserves the right to seek to revoke this Permit for violations of these Conditions of Approval.
~~Failure to abide by and faithfully comply with all conditions of approval shall constitute grounds for revocation and/or termination of the Site Development Permit and Parking Use Permit approved in conjunction with the Project, as applicable~~
3. Unless the context dictates otherwise, whenever the term “Project” is used in the following Conditions of Approval, it shall collectively refer to the plans presented at the September 23, 2025, meeting of the Laguna Hills Planning Agency (Plan or Plans), and other studies and exhibits submitted to the City by the Applicant to depict the improvements to be constructed on the Applicant's property, consisting of an approximately 2.5-acre parcel located at 25254 and 25260 La Paz Road (APN 620-211-17) (the “Subject Property”) and the adjacent parcels located at 25250 and 25252 La Paz Road (APNs 620-211-18 and 620-211-15), and 25732 and 25758 La Paz Road (APN 620-211-09) as part of the Project, as modified by these Conditions of Approval.
4. The application is a plan for location and design of uses, structures, features, and materials submitted by this application and shown on the approved plans. Development shall be consistent with the approved Plans, as modified by these Conditions of Approval, and all applicable architectural design guidelines and all other development standards specified in the Laguna Hills Municipal Code (“LHMC”). Any material relocation, alteration, modification, or addition to any use, structure, feature, or material, not specifically approved shall require an application for a Changed Plan (CP) to USE-0147-2023 (SDP/PUP), unless the Community Development Director (“Director”) determines the proposed change is ~~immaterial and~~ consistent with the provisions and the spirit and intent of the original approval. The Director may approve minor modifications to these Conditions of Approval through the Changed Plan process.
5. To the fullest extent permitted by law, the Applicant shall, at its sole cost and expense, protect, defend, indemnify, and hold harmless the City, its elected and appointed officers and officials, employees, agents, departments, agencies, authorized volunteers, consultants, attorneys, boards, commissions,

- and committees, and instrumentalities thereof ("Indemnitees"), from and against any and all claims, liabilities, losses, fines, demands, penalties, lawsuits, writs of mandamus, and any other claims or actions or proceedings of any kind whatsoever (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to, arbitrations, mediations, and other such procedures), judgments, orders and decisions (collectively "Claims" and "Actions"), brought against the Indemnitees, which seek to attack, challenge, modify, set aside, void, or annul any action of or any permit or approval issued by the Indemnitees (including actions approved by the voters of the City) for, in connection with, or concerning the approval of this Permit. It is expressly understood and agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the defense of the Indemnitees for the Claims and Actions, and if the Applicant takes any actions or asserts any position with which the City disagrees, the City shall be entitled to appoint its own attorney at its own expense. ~~and that the Applicant shall promptly reimburse the City for all costs and expenses directly and necessarily incurred by the City in the course of the defense, including reasonable attorneys' fees.~~ The City shall promptly notify the Applicant of any Claims and Actions brought against the Indemnitees and shall cooperate in the defense of any such Claims and Actions. If the Applicant fails to so defend the Claims and Actions, the City shall have the right but not the obligation to do so and, if it does, the Applicant shall promptly pay the City's full cost thereof.
6. Except as otherwise mandated by State law, which includes, but is not limited to, the rights afforded by the Housing Accountability Act and the Builder's Remedy, approval of this Permit constitutes approval of the proposed Project only to the extent that it complies with the City's Development Code and any other applicable zoning regulations in effect as of December 14, 2022. Approval does not include any action or findings as to compliance or approval of the Project regarding any other applicable ordinance, regulation, or requirement.
- ~~7. Failure to abide by and faithfully comply with any and all Conditions of Approval shall constitute grounds for revocation of this Permit by the Laguna Hills Planning Agency.~~
- ~~8.7.~~ Approval of this Permit is expressly conditioned on the Applicant's written agreement with these conditions of approval. The Applicant shall agree in writing to these conditions of approval within 30 days of the Planning Agency's approval, or this Permit and all rights granted hereunder shall not be effective.

~~9.8.~~ The conditions of Project approval set forth herein include certain development impact fees and other exactions. Such fees and exactions are considered vested as of the date of the submittal of the SB330 application on December 14, 2022. Otherwise, Pursuant to the Mitigation Fee Act, including but not limited to, Government Code §66020(d), applies and these conditions constitute written notice of the amount of such fees. The Applicant is hereby notified that the 90-day period in which the Applicant may protest the fees, dedications, reservations, or exactions imposed on this Project through the Conditions of Approval, commencing from the date of approval of the Project, has begun. The Project is subject to the following development impact fees in effect as of December 14, 2022:

- a. Citywide Park Fee of \$15,636.00 per unit pursuant to LHMC Chapter 8.07 and City Council Resolution No. 2018-11-13-3.

~~10.9.~~ Pursuant to City Council Resolution No. 2017-07-11-2, the Applicant shall reimburse the City for any outstanding fees for processing of this Permit within 60 days of the Planning Agency's approval. The Applicant shall be responsible for payment of all applicable, posted fees pertaining to development of the Project pursuant to the City's Comprehensive Fee Schedule. All outstanding fees and expenses shall be paid in full prior to a final inspection of the Project improvements.

~~11.~~ Unless a time extension is granted pursuant to Laguna Hills Municipal Code Section 9-92.080(L), this Permit shall expire and be of no further force or effect if the subject development and construction necessary and incidental thereto is not initiated and commenced within two (2) years of the Planning Agency's approval and thereafter diligently advanced until completion of the Project. In the event construction of the Project is commenced, but not diligently advanced until completion, the rights granted pursuant to this Permit shall expire if the building permits for the Project expire. Initiated and commenced is defined as issuance of a precise grading permit within two years of the date of approval of the Subject Project and commencement of grading prior to expiration of the grading permit, and subsequently, issuance of a building permit for the foundation of the building shell prior to the expiration of the grading permit and commencement of construction prior to expiration of the building permit.

10.

~~12.11.~~ Within 48 hours from project approval, the Applicant shall submit to the City a check in the amount of \$50.00, made payable to the Orange County Clerk-Recorder, for filing the Notice of Exemption.

PLANNING DIVISION

~~13-12.~~ The Applicant shall maintain the Subject Property in compliance with property maintenance standards as set forth in LHMC Chapter 9-74. This includes prohibitions on outdoor storage and maintenance of the premises that cause obnoxious odors.

~~14-13.~~ No permanent overhead utilities shall be installed.

~~15-14.~~ Prior to issuance of any grading permits, the Applicant shall submit the Project's grading plan to the Community Development Director for review and approval. The grading plan shall be consistent with the architectural site plan as approved by this Permit to the reasonable satisfaction of the Community Development Director.

~~16-15.~~ Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan to the Community Development Director for review and approval. The plan shall demonstrate compliance with the provisions of Laguna Hills Municipal Code Chapters 9-46 and 9-47 in effect on December 14, 2022, including sufficient wall screening, landscaping, planter size and shade trees along the site perimeter and within the Project parking lot, installation of "Smart" landscape irrigation controllers, low precipitation-rate sprinkler heads, and water efficient landscaping, as applicable.

~~17-16.~~ Prior to the issuance of a building permit, the Applicant shall submit a lighting and photometric plan to the Community Development Director for review and approval. The Community Development Director may require additional lighting if lighting levels at approved pedestrian walkways and internal intersections under construction are insufficient to comply with the requirements of LHMC Chapter 9-40 in effect on December 14, 2022, when completed. The plan shall include a photometric analysis of proposed lighting and shall comply with lighting requirements of the Laguna Hills Municipal Code, including that light and glare shall not be projected beyond the boundaries of the Subject Property to the reasonable satisfaction of the Community Development Director. The City may withhold issuance of a Certificate of Use and Occupancy for any building or portion thereof if the lighting associated with such building has not been installed.

~~18-17.~~ Outdoor security and other lighting shall be designed and maintained so as not to illuminate beyond the Subject Property to the reasonable satisfaction of the Community Development Director. All exterior lights shall be focused inward and away from surrounding uses and adjacent residential properties. Prior to the issuance of a building permit, the Applicant shall provide an updated photometric plan showing compliance with the Laguna Hills Municipal Code. Pursuant LHMC Section 9-40-170, exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the

boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity, and height to the use served.

~~19-18.~~ Prior to issuance of a Certificate of Use and Occupancy, the Applicant shall submit a Master Sign Program for review and approval pursuant to Laguna Hills Municipal Code Chapters 9-42 and 9-92 in effect on December 14, 2022. Signage within the parking structure shall be included as part of the Master Sign Program for the property.

~~20-19.~~ The Applicant shall comply with all temporary and permanent sign requirements of the City's Sign Ordinance, as specified in Laguna Hills Municipal Code Chapter 9-42 in effect on December 14, 2022. The Applicant shall not use or display any prohibited signs listed in LHMC Section 9-42.260.

~~21-20.~~ Prior to the issuance of a building permit, the Applicant shall submit a striping and signage plan that includes information demonstrating compliance with the requirements of Subsection K of Laguna Hills Municipal Code Section 9-44.060 (Design standards for parking facilities) in effect on December 14, 2022. Subsection K establishes criteria that apply to the siting of all parking facilities, whether above or below grade in structures or at surface level. The plan shall be reviewed and approved as part of the building permit review process.

~~22-21.~~ This Permit only authorizes use of the Subject Property as an independent living, age restricted, rental apartment development and does not authorize the establishment of a Community Care Facility or Residential Care Facility, as defined in LHMC Chapter 9-04. This Approval does not prohibit applicant from seeking to add Community Care Facility and/or Residential Care Facility for the Elderly use(s) in the future as long as Applicant complies with all state, Orange County Fire Authority, and City of Laguna Hills requirements for use of the Project (in whole or in part, as the law may allow) for such level of service.

~~23-22.~~ Prior to issuance of a grading permit, Applicant shall provide evidence to the reasonable satisfaction of the Community Development Director that there are no easements (including, but not limited to, easements for reciprocal access and/or parking or utilities) that conflict with the proposed Project.

BUILDING DIVISION

~~24-23.~~ The Applicant shall be responsible for ensuring all applicable building permits are obtained for any activity requiring a permit. Construction shall comply with the 2019 California Building, Plumbing, Mechanical, Electrical, and Green Building Codes, as may be amended, or the applicable California Building Code in effect at the time of building permit issuance. Any required documents

submitted for the purpose of building permit issuance shall be accurately labeled and reflect all work to the reasonable satisfaction of the Community Development Director.

~~25.~~24. At the time of document submittal for permit issuance, the Applicant shall demonstrate compliance with California Disabled Accessibility requirements, as required by Chapter 11 of the California Building Code if applicable.

~~26.~~25. The Applicant shall comply with all general construction water quality requirements, as required by the LHMC 5-36.

~~27.~~26. Prior to issuance of any building permit, the Applicant shall submit to the Community Development Director all required approvals from the Orange County Health Department.

~~28.~~27. Prior to issuance of each building permit, the Applicant shall submit to the Community Development Director all required approvals from the Orange County Fire Authority.

~~29.~~28. Prior to issuance of each building permit for the demolition of any existing building, the Applicant shall submit to the Community Development Director evidence of all required approvals from South Coast Air Quality Management District or provide verification of plan submittal, as applicable.

~~30.~~29. The Applicant shall demonstrate compliance with all applicable building energy efficiency standards established by the California Energy Commission that are in effect at the time of the issuance of any permit.

~~31.~~30. The Project shall comply with LHMC Chapter 5-28 (Smoking and Sale of Tobacco Products). Required signage and notices shall be installed prior to the issuance of a Certificate of Use and Occupancy and commencement of any use.

~~32.~~31. During construction, adequate emergency access shall be maintained to the site at all times in accordance with any requirements of the Orange County Fire Authority (OCFA).

~~33.~~32. Prior to the commencement of any work, the Applicant shall provide a contact number to the Community Development Director for the public to call concerning dust, noise, or other construction-related impacts. The information shall also be posted on site in a manner approved by the Community Development Director.

ORANGE COUNTY FIRE AUTHORITY (OCFA)

~~34.~~33. ~~The~~ Prior to issuance of ~~grading permits,~~ the applicant must address and correct all outstanding OCFA PR105 Conceptual site plan and design review

comments, corrections, and/or concerns as outlined in the August 28, 2025 letter (Exhibit A), including complying with any future conditions imposed by OCFA.

~~35-34.~~ The applicant must formally submit the following plans to OCFA and gain OCFA approval before City grading and building permits issuance.

- a. OCFA Fire Master Plan
- b. Architectural Plan, Construction Drawings

~~36-35.~~ The applicant must formally submit the following plans (as applicable) to OCFA after the fire master plan and architectural plans are approved by OCFA.

- a. Underground Fire Line
- b. Fire Sprinkler Systems
- c. Fire Alarm Systems
- d. Emergency Power Generator Systems
- e. Building Energy Storage Battery Systems
- f. Access / Egress Control Systems
- g. Security Vehicle Gates, perimeter gates, and doors

PARKING STRUCTURES

~~37-36.~~ The parking structure shall be designed to include pavement treatments/materials or finishing techniques that reduce noise generated by automobile tire squeal. All pavement treatments and materials shall be subject to the reasonable approval of the Community Development Director prior to building permit issuance for any parking structure.

~~38-37.~~ Prior to building permit issuance for the parking structure, the Applicant shall confer with the Orange County Sheriff's Department (OCSD) to identify features consistent with best practices identified in "Crime Prevention Through Environmental Design in Parking Facilities" or other standards acceptable to OCSD that could be incorporated into the parking structure for which a building permit is requested.

MECHANICAL EQUIPMENT

~~39-38.~~ Mechanical equipment, storage, trash areas, and utilities installed at ground level shall be architecturally screened by solid or semi-solid material from public view to the reasonable satisfaction of the Community Development Director. The method of screening shall be architecturally compatible in terms of materials, color, shape, and size. The screening design shall blend with the

building design and include landscaping when on the ground. For rooftop mechanical equipment, building parapet walls shall be at least as high as the equipment and vents installed on each building. For any roof-top equipment, in lieu of fully screening the equipment, the Applicant may provide a "line of sight" study to the Director that indicates no screening is required given the location of mechanical equipment on the roof of a building relative to one or more viewpoints within the Project (as reasonably determined by the Community Development Director) at finished grade. Roof mounted solar panels are excluded from this requirement so long as the overall height of the equipment is as close to the height of building parapet walls as possible, or where integrated into an accessory building such as a roof top carport.

PUBLIC WORKS DEPARTMENT

40-39. Prior to the issuance of any grading permit or building permit, security instruments shall be posted guaranteeing construction of on-site and off-site improvements in accordance with LHMC Section 10-16.300, and these Conditions of Approval. Security instruments shall include a grading bond and a landscape bond, unless the latter is waived by the Community Development Director.

41-40. The Applicant shall comply with the recommendations in the Geotechnical Evaluation Report prepared for the Project (Exhibit B).

42-41. Prior to the issuance of a Certificate of Use and Occupancy, the applicant shall pay for all required geotechnical testing services for improvements in the public right-of-way, which shall be invoiced by the City based on time and materials. These fees will be in addition to all applicable encroachment, grading, subdivision, etc. inspection fees. These fees must be paid in full prior to release of any grading bonds.

43-42. Prior to the issuance of a building permit, the Applicant shall submit a grading and erosion control plan for any on-site drive aisle, parking space, sidewalk and/or other hardscape improvements. As applicable, the grading plan shall show the construction of all curb and gutter, asphalt and concrete pavement, sidewalk, storm drain, sewer and water systems (for reference only) and other improvements, and must include a horizontal control plan.

44-43. Prior to release of any grading bonds, the Project improvements must be completed to the reasonable satisfaction of the City Engineer. This includes completion of all punch list items, approved mylar as-builts, underground inspections (for storm drain systems, if any), required paperwork (such as soils reports, certifications, etc.). All associated permits will be considered active, until all items (including paperwork) have been completed to the reasonable

satisfaction of the City Engineer. All permits must be current (not expired) at time of bond release. The Applicant is advised that there may be permit renewal fees if said permits have expired prior to completion of all above listed items.

~~45.44.~~ All grading and storm drain plans shall be prepared on City standard ARCH D size sheets by a licensed civil engineer and shall be submitted to the City Engineer for approval. All landscaping plans shall be prepared on City standard ARCH D size sheets by a licensed landscape architect and shall be submitted to the City Engineer for approval. All plans must be in substantial conformance with the approved site/concept plans. Plan check and inspection fees shall be paid by the Applicant in accordance with the City's fee schedule.

~~46.45.~~ Prior to the release of any grading bonds, all grading, storm drain, and landscaping plans associated with the Project shall be as-built upon completion of the Project. Once the as-built drawings are approved, the Applicant shall provide the City with a duplicate mylar of the plans and scanned PDF or TIFF files of all plans.

~~47.46.~~ Prior to the issuance of a precise grading permit, all on-site improvement construction (parking lots, sidewalks, ramps, grading) shall be bonded for with the precise grading plan and permit.

~~48.47.~~ Prior to the issuance of any grading permit, erosion control, demolition, and earth moving work shall be bonded for with the rough or precise grading plan and permit, whichever occurs first.

~~49.48.~~ Prior to work in the public right-of-way, an encroachment permit shall first be obtained from the City Engineer. The City Engineer at his sole discretion may require the posting of an encroachment permit bond to guarantee the completion of work in the public right-of-way.

PUBLIC WORKS DESIGN CONDITIONS

~~50.49.~~ Grading of the Subject Property shall be in accordance with the City of Laguna Hills Grading Code and Manual and to the reasonable satisfaction of the City Engineer. Any grading required outside of the Project boundaries will require either slope easements or right-of-entry letters from the adjacent property owners.

~~51.50.~~ Prior to the issuance of a grading permit, the following on site (private property) improvements shall be designed in a manner meeting the approval of the City Engineer in conformance with Laguna Hills Municipal Code Section 10-16.020:

- a. All provisions for surface drainage.
- b. All necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff.

- c. All structural pavement sections for on-site and off-site streets, including all newly constructed or reconstructed parking lots, shall be submitted to and approved by the City Engineer. The soils engineer shall submit pavement section recommendations based on "R" Value analysis of the subgrade soils and approved City traffic indices. In no event shall the minimum pavement sections be less than the City's engineering standard plan minimum pavement sections.
- 52-51. Prior to the issuance of any grading permit, the Applicant shall provide a Certified Access Specialist (CAsp) report reviewing existing pathways, sidewalks and access ramps for both on-site access and adjacent to the site access along the accessible pathways for compliance with the Americans with Disabilities Act (ADA) for approval by the City Engineer and the Building Official. Accessible pathways shall not include a path within any drive aisle, except as necessary to cross a drive aisle at 90° to the drive aisle. The CAsp report shall include an implementation plan to correct all deficiencies noted and as reasonably approved by the City Engineer and the Building Official.
- 53-52. Prior to the issuance of a Certificate of Use and Occupancy, any sidewalk or pathway not in compliance with ADA standards and the CAsp report, as approved by the City Engineer and the Building Official, shall be reconstructed to the City's standards.
- 54-53. Prior to the issuance of a precise grading permit, a horizontal control plan showing dimensioning of drive aisle, driveway, parking stall, and hardscape improvements shall be prepared for review and approval by the City Engineer. Minimum dimensions for drive aisles, driveways, and parking stalls shall adhere to City engineering standard plans and the Municipal Code. The City of Laguna Hills has adopted County of Orange Public Works Standard Plans as its engineering standard plans.
- 55-54. Prior to the issuance of a Certificate of Use and Occupancy, the Applicant shall demonstrate to the reasonable satisfaction of the City Engineer that a corner cut-off area is created at the intersection of each driveway serving the Project and a public street that satisfies the requirements of LHMC Section 9-40.160 or otherwise provides traffic vision clearance meeting the corner vision clearance requirements set forth in the California Department of Transportation Highway Design Manual or other applicable published public safety standard.
- 56-55. Development of the proposed senior housing Project improvements may result in the uses and/or improvements located on the adjacent parcels within the Village at Laguna Hills located at 25250 or 25252 La Paz Road (APNs 620-211-18 and 620-211-15) becoming nonconforming to, or to increase their nonconformity to, applicable City zoning and development standards. These

adjacent parcels are currently owned by the Applicant. Accordingly, prior to issuance of a grading permit for the Project, the Applicant shall ensure that any such nonconformities, or increases in nonconformity, on these adjacent parcels are eliminated or prevented through approved improvements on said parcels or other means reasonably acceptable to the Community Development Director. Specific examples of said nonconformities, or increases in nonconformities, that will or may result from development of the proposed Project that must be eliminated or prevented prior to the issuance of grading permits include, but may not be limited to, the following:

- a. The Project Plans propose to reduce the width of a shared two-way parking aisle straddling the Subject Property and 25252 La Paz Road (currently improved with Better Buzz Coffee) to less than the minimum dimension required for one-way parking aisles within 25252 La Paz Road after the completion of construction. Laguna Hills Municipal Code Section 9-44 requires that one-way drive aisles in parking lots be no less than 14' wide. The Applicant's proposed plan would result in a one-way drive aisle 10' wide on the Better Buzz Coffee parcel, which is narrower than required by Laguna Hills Municipal Code Section 9-44. Improvements shall be made to the parking lot on the Better Buzz Coffee parcel to ensure this one-way drive aisle is 14' in width or variance approval obtained. The desired drive-aisle may be able to be achieved through the reduction of the size of the existing planter and possible loss of a parking stall, in conjunction with restriping of the parking lot.
- b. The uses located on the two adjacent parcels currently share access to parking spaces with the uses currently located on the Subject Property. Prior to issuance of a grading permit for the Project, the Applicant shall demonstrate to the reasonable satisfaction of the Community Development Director that each of the two adjoining parcels and the uses thereon meet applicable minimum off-site parking requirements. If restriping or other improvements on the adjoining parcels are required to ensure minimum parking requirements are met, such improvements shall be completed prior to issuance of a grading permit for the Project.

~~57.56.~~ Prior to the issuance of a building permit, the Applicant shall provide plans demonstrating compliance with Laguna Hills Municipal Code Section 9-40.200 (Undergrounding of utilities) which states, in pertinent part: "Utilities shall be placed underground. If an above-ground electrical transformer is located outdoors on any site, it shall be screened from view with a solid wall and landscaping and not located in any setback area."

PUBLIC WORKS CONSTRUCTION CONDITIONS

- ~~58-57.~~ Perimeter fencing shall be installed that has green screen material or approved equal. The fence/screen material shall be properly maintained and be free of rips, tears, fraying, graffiti, and any other damage or vandalism.
- ~~59-58.~~ The Applicant shall comply with all requirements of the Orange County Stormwater Program "Construction Runoff Guidance Manual" during the construction of the Project. The requirements contained in this manual shall be incorporated into the grading plans.
- ~~60-59.~~ All concrete (including sidewalk) that comes in contact with native soils shall contain Type V cement.
- ~~61-60.~~ Prior to the issuance of a Certificate of Use and Occupancy, all uplifted, subsided or severely worn curb, gutter and sidewalk that fronts the Project in the public right-of-way along McIntyre Street shall be removed and replaced. This includes uplifted, subsided or severely worn curb and gutter and sidewalk that was in this condition prior to the start of construction. Limits of removal and replacement will not be marked out until immediately prior to occupancy so that all damage that occurred during construction can be included in the limits of replacement.
- ~~62-61.~~ Prior to the issuance of a Certificate of Use and Occupancy, all City Street pavement restorations shall be completed to the reasonable satisfaction of the City Engineer.
- ~~63-62.~~ If any asphalt pavement cuts are made into existing City roadways, the subject roadway shall be ground down and overlaid from the gutter line to the centerline or median of the roadway for any cuts made in that portion of the roadway, and to the reasonable satisfaction of the City Engineer.
- ~~64-63.~~ During the course of the Project construction, no public streets shall be utilized for temporary storage of any construction materials and no vehicles shall be off-loaded or deliveries or filled with materials on any public street.
- ~~65-64.~~ Prior to the issuance of any grading permits, a haul route plan for all exports/imports from/to the site shall be submitted for review and approval by, and to the reasonable satisfaction of, the City Engineer. The haul route shall not utilize any arterial highway prior to 9:00 am or after 4:00 pm daily. In addition, a construction vehicle routing plan shall be submitted for review and approval by, and to the reasonable satisfaction of, the City Engineer prior to any demolition or construction work.
- ~~66-65.~~ During the course of Project construction, no construction equipment traffic shall access or depart the site during morning or evening traffic peak periods,

which are 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday.

~~67-66.~~ During the course of Project construction, the Applicant shall adhere to Laguna Hills Municipal Code provisions limiting hours of construction. Pursuant to LHMC Section 5-24.070, activities associated with construction or grading that generate noise levels in excess of those set forth in LHMC Chapter 5-24 shall not take place between the hours of eight p.m. and seven a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.

~~68-67.~~ If construction commences during the nesting season (February – September), the Applicant shall cause a pre-construction nesting survey to be conducted within 3 days prior to ground disturbing activities to determine the presence/absence of nesting birds. If an active nest is found on the study area, a qualified biologist will establish a buffer around the nest (up to 500 feet for raptors and 300 feet for passerine birds) and ongoing biological monitoring during construction may be required until the nestlings have fledged and the nest is no longer active. The buffer will be established by a biologist based on the sensitivity of the species to disturbance and the proximity to project activities. Construction activities may commence outside of the buffer under the discretion of a monitoring biologist. Once the monitoring biologist has determined the nest is no longer active, the buffer can be removed.

~~69-68.~~ The Applicant shall implement all of the following measures during construction, as applicable:

- a. The project applicant shall comply with all requirements of South Coast Air Quality Management District (SCAQMD) Rule 403 regarding fugitive dust control.
- b. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City.
- c. Low VOC (i.e., ROG) coatings shall be used that comply with SCAQMD Rule 1113: Architectural Coatings.

PUBLIC WORKS DRAINAGE AND HYDROLOGY CONDITIONS

~~70-69.~~ In accordance with Laguna Hills Municipal Code Section 10-16.340, which requires conformance with the Grading Manual, prior to the issuance of a grading permit, a hydrology and hydraulic study (including off-site areas affecting the development) shall be prepared by a qualified civil engineer and

approved by the City Engineer. The report shall include detailed drainage studies indicating how the grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood.

71-70. Prior to the issuance of grading permits or the approval of improvement plans, a recorded drainage acceptance letter for any concentration or increase of drainage runoff to adjacent properties shall be required.

72-71. All storm drain systems shall be designed and constructed in accordance with the County of Orange Local Drainage Manual, Orange County Public Works Standard Plans, and applicable City standard engineering plans.

73-72. Prior to the issuance of a Certificate of Use and Occupancy, any storm drains modified by the Project, if any, shall be inspected by the County of Orange Underground Inspection Team (the City will arrange for the inspection). There will be additional fees for this inspection.

PUBLIC WORKS SOLID WASTE AND RECYCLING CONDITIONS

74-73. The Applicant shall comply with all requirements set forth in Laguna Hills Municipal Code Chapter 5-32.210 and 5-48 (Construction and Demolition Waste Recycling Program) and related CalRecycle regulations. Prior to issuance of building permits, the Applicant shall submit and obtain approval of a waste reduction and recycling plan as prescribed by the C&D Compliance Official and submit all applicable fees and security deposits.

75-74. Prior to the issuance of a building permit, the Applicant shall provide for review and approval by the City Engineer a trash and recycling plan detailing the expected trash and recycled material volume produced by the Project. Accordingly, all existing and proposed trash bin enclosures shall be sized to accommodate the required number of trash and recycling bins as required by the plan. At a minimum, any trash bin enclosure shall be built according to the City's standard engineering plan, which requires a floor drain connected to the sanitary sewer system and a solid roof to prevent rain water intrusion, and shall accommodate one three-yard trash bin and one three-yard recycling bin (approximate dimensions 40" wide x 82" long) and one organics recycling cart (approximate dimensions 30" wide x 36" long) and enough room for personnel to access the trash bins. No trash bin shall be located outside an enclosure approved by the Community Development Director. If, at any time in the future it is determined by the Public Works Director that the trash enclosure is inadequate, the property owner at its expense shall expand the trash enclosure

to accommodate extra bins as evidenced by operations or shall order more frequent trash and recycling bin pick-ups. All trash, storage of cartons, containers, and other discarded items shall be screened from public view at all times. LHMC Section 5-32.040 requires that the storage and collection of mixed solid waste and divertable materials be within enclosures.

~~76-75.~~ Prior to the issuance of a Certificate of Use and Occupancy, in accordance with Section 5-32.100 of the Laguna Hills Municipal Code, the applicant shall subscribe to the City's franchise waste hauler's organics recycling service as required by State Senate Bill 1383. Further information can be found here: <https://www.ci.laguna-hills.ca.us/211/Recycling-For-Businesses>

~~77-76.~~ Prior to the issuance a grading permit, the Applicant shall provide a will serve letter from the City's franchise solid waste hauler demonstrating that the site and proposed plan of development will allow the franchise solid waste hauler to service the Project.

PUBLIC WORKS STORM WATER / WATER QUALITY CONDITIONS

~~78-77.~~ All projects, in conjunction with a grading permit, require the preparation of an erosion control plan in conformance with the City of Laguna Hills Grading and Excavation Code. All erosion control plans shall incorporate Best Management Practices to the maximum extent possible. In addition, erosion control shall be implemented during construction year-round.

~~79-78.~~ Prior to the issuance of any grading permit, evidence that proper clearances have been obtained from the San Diego Regional Water Quality Control Board such as the filing of a Notice of Intent to Discharge, shall be provided to the City Engineer. If a permit is required, the Applicant will be required to prepare a Storm Water Pollution Prevention Plan.

~~80-79.~~ Prior to the issuance of a Certificate of Use and Occupancy, "No Dumping - Drains to Ocean" shall be stenciled directly above any inlets or an approved stencil shall be used to paint this message on inlets.

~~81-80.~~ Prior to issuance of any precise grading permit, a Water Quality Management Plan (WQMP) shall be approved by the City Engineer. The WQMP shall be prepared in conformance with the City's WQMP Instructions and Template. The project design and construction shall comply with the requirements of the latest edition of the City's National Pollutant Discharge Elimination System (NPDES) Permit issued by the San Diego Regional Water Quality Control Board. Copies of the Permit may be downloaded from the Water Board's website at www.waterboards.ca.gov/sandiego. This order and the City's NPDES Local Implementation Plan (LIP) require the City to classify this Project as a priority project. The Applicant will be responsible for complying with the "priority

development project" requirements of this Permit, which requires the Project to incorporate source control BMPs and structural treatment BMPs. The Applicant is advised that there are additional plan check fees for the review of this document.

82-81. Prior to the issuance of a Certificate of Use and Occupancy, all water runoff from the site (including sheet flow), including existing areas, shall be required to be filtered with a water quality device approved by the City Engineer, prior to the discharge of the water to the street gutter or storm drain system. This may require the installation of trench drains the entire width of the entrances to collect and treat sheet flow leaving the site.

83-82. Prior to the issuance of a Certificate of Use and Occupancy, the property owner shall furnish a recorded copy of a Maintenance Agreement outlining post construction Best Management Practices (BMP's) in accordance with the County of Orange Drainage Area Management Plan Appendix for New Development. The following non-structural BMP's are required to be implemented by the current property owner, and all subsequent property owners to satisfy National Pollution Discharge Elimination System requirements and requirements outlined in the Orange County Drainage Area Management Plan. A copy of these conditions of approval shall be provided to all subsequent property owners. The following BMP's will be required:

- a. Storage and Repair of Motor Vehicles - The property owner shall not allow motor vehicles stored on the premises to be washed on site, unless a car wash facility is proposed that is connected to the sanitary sewer system. Motor vehicles may be lightly rinsed (with no detergents, soaps, or surfactants) provided that de-ionized water is used sparingly and any runoff is diverted to a landscaped area or collected on-site and disposed of into the sanitary sewer system. Vehicles parked at this facility that show evidence of leaking fluids must be stored with drip pans located to catch the leakage and protected from mixing with stormwater. All hazardous pollutants spilled from stored vehicles shall be cleaned and picked up immediately with an appropriate "dry method" absorbent material and disposed of properly. All spills must be contained and cleaned up on the premises.
- b. Litter Control - The property owner will be required to implement trash management and litter control procedures in the common areas aimed at reducing pollution of drainage water. The property owner may contract with their landscape maintenance firm to provide this service with the regularly scheduled maintenance, which should consist of litter patrol, emptying of

trash receptacles in common areas, and noting trash disposal violations and reporting the violations to the property owner for investigation.

- c. **Trash Enclosures and Dumpsters** - The property owner shall post signs on trash enclosure gates that state "Keep Dumpster Lids Closed." The property owner will monitor dumpster usage such that dumpsters are not overfilled and the dumpster lids can close completely. The property owner shall increase the trash pickup schedule as necessary to prevent dumpsters from overfilling.
- d. **Landscape Maintenance** - Ongoing maintenance must be consistent with the City's adopted water conservation ordinance, plus fertilizer and pesticide usage consistent with the "County Management Guidelines for Use and Fertilizers and Pesticides." Landscaping irrigation systems shall be adjusted and properly maintained to prevent over spray runoffs.
- e. **Green Waste Disposal** - Green waste shall not be blown or swept into, or disposed of, in the street, gutter, public right-of-way, or storm drain catch basins or inlets. Leaf blowers, if used, shall be used to move green waste into piles so they can be swept and picked up and disposed of in green waste recycling containers.
- f. **Employee Training** - The property owner shall prepare a training manual(s) for existing and future employees. The manual should include information on non-point source pollution and how to use proper Best Management Practices (BMPs) to minimize runoff pollutants. Training shall be provided upon hire and at regular intervals thereafter.
- g. **Catch Basin/Inlet Inspection** - The property owner must inspect all catch basins/inlets on site and clean the catch basins, if necessary, prior to the storm season (no later than October 15 each year).
- h. **Lot/Street Sweeping** - The property owner must sweep outdoor lots regularly (minimum monthly), and prior to the storm season (no later than October 15 each year). Sweeping shall be done with a vacuum-type sweeper. Under no circumstances are outdoor areas/lots to be rinsed or washed with water unless said rinse/wash water is collected and disposed of properly (i.e. into the sewer).
- i. **Catch Basin Stenciling** - All catch basins/inlets/outlets on site must be marked using the City's "No Dumping - Drains to Ocean" curb marker or stenciled using an approved stencil shall be used to paint this message on the top of curb directly above the inlet, and on one side of the curb face. Labeling for catch basins is to be inspected regularly and maintained so as to be reasonably legible at all times. The inspection and maintenance is to

be performed by the property owner. This stencil is to alert the public/employees to the destination of pollutants discharged into the storm water.

- j. BMP Maintenance - The property owner shall be responsible for implementation of each non-structural BMP and regularly scheduled cleaning of all BMP structural facilities (catch basin, storm drains, trash enclosures, etc.).
- k. Title 22 CCR Compliance - The property owner must comply with Title 22 of the California Code of Regulations and relevant sections of the California Health and Safety Code regarding hazardous waste management, which will be enforced by County Environmental Health on behalf of the State.
- l. Haz-Mat Disclosure Compliance - The property owner shall comply with County and City ordinances.
- m. Uniform Fire Code Implementation - The property owner shall comply with Article 80 of the Uniform Fire Code.
- n. Spill Response Plan/Kit- The property owner shall develop a spill response plan and maintain a spill response kit on site. Employees shall be properly trained to use the spill response kit. Owner shall maintain absorbent materials in the spill response kit to adequately contain any spills that can be anticipated (i.e. oil drips, engine coolant, etc.).

84.83. Prior to the issuance of a precise grading permit, the Applicant shall provide plans and supporting documentation for the review and approval of the City Engineer showing that areas requiring regular washing/cleaning (including dumpster areas) are isolated from the storm drain system. No discharge from such areas shall be allowed into the storm drains. This plan may be incorporated into the WQMP.

85.84. Prior to the issuance of a precise grading permit, the design plans shall include a solid roof over any proposed loading dock(s) and any drains within the proposed loading dock(s) shall be connected to the sanitary sewer system as required by the City's Best Management Practices (BMP) Design Manual dated August 31, 2019, and approved by the California Regional Water Quality Control Board, San Diego Region.

86.85. Prior to the issuance of a Certificate of Use and Occupancy, catch basin filters shall be installed on all catch basins which drain the subject site, including any existing catch basins. Specification sheets shall be submitted to the City Engineer for approval prior to the installation of the filters.

PUBLIC WORKS WATER, SEWER, AND UTILITIES CONDITIONS

~~87-86.~~ The Applicant shall complete all improvements and comply with requirements of the Moulton-Niguel Water District, as set forth in its letter dated February 29, 2024, and/or any subsequent analysis performed by the Water District (Exhibit C). Prior to the issuance of any building permit or grading permit, Applicant shall provide evidence to the City of the Water District's concurrence that all of its requirements to provide water and sewer service to the Project have been satisfied. Prior to the issuance of a precise grading permit, water and sewer improvement plans shall be approved by the appropriate water district and the City Engineer. All water and sewer facilities shall be constructed in accordance with the appropriate agency's specifications, with all incidental fees paid by the Applicant. These facilities shall be dedicated to the appropriate water district by the Applicant to the reasonable satisfaction of the City Engineer.

~~88-87.~~ On-site water and sewer facilities that will not be maintained by Moulton-Niguel Water District shall be plan checked and inspected by the City's Building Department. All fees shall be paid in accordance with the City's fee schedule.

~~89-88.~~ Any above ground valve assemblies or back-flow devices shall be placed on private property and an easement dedicated to Moulton-Niguel Water District.

~~90-89.~~ Prior to the issuance of a Certificate of Use and Occupancy, any damage, either structural or aesthetic, to any public and/or private streets as a result of utility connections to service the Project shall be repaired by the Applicant to the reasonable satisfaction of the City Engineer. The improvements will not be accepted by the City until the necessary repairs are completed.

~~91-90.~~ Any above ground utility cabinets shall be placed on private property and an easement dedicated to the appropriate utility company (if required).

~~92-91.~~ No above ground utility structures, cabinets, pipes, or valves shall be constructed within the public right-of-way.

PUBLIC WORKS LANDSCAPING-RELATED CONDITIONS

~~93-92.~~ The maintenance of any landscaping between the curb and the right-of-way line of any street abutting the parcel shall be the responsibility of the owner of that parcel, unless a recognized association or district has assumed responsibility for said maintenance.

~~94-93.~~ All landscape plans shall reflect all improvements shown on the final approved grading plans and building plans including, but not limited to, improvements such as ramps, walkways, driveways, planter areas, fire access lanes, ingress and egress to buildings, and appurtenances constructed to support the use of any improvements such as gates, handrails, fences, or walls.

TRAFFIC AND PARKING CONDITIONS

95-94. Prior to the issuance of a precise grading permit, a plan for the placement and installation of traffic signing, pavement delineation, and other traffic devices on the subject property shall be prepared for review and approval by the City Engineer. Parking stalls shall be sized and striped according to City engineering standard plans and the Municipal Code, and stop signs along with stop legend bar shall be provided at all locations as specified by the City Engineer. The City of Laguna Hills has adopted County of Orange Public Works Standard Plans as its engineering standard plans.

96-95. Prior to the issuance of a grading permit, the Applicant shall provide a construction management plan that demonstrates how existing tenants in La Paz Village during project construction will maintain access to adequate parking and parking lot circulation in addition to vehicle and pedestrian access. The plan shall ensure each building maintains the following: 1) adequate site access (vehicular and pedestrian); 2) adequate parking; 3) access to public and private transportation facilities; 4) utility services; and 5) access to adjoining properties that are in existence. In approving the plan, the Public Works Director and Community Development Director may consider the historical vehicular and pedestrian connections between the Subject Property and adjacent properties, and the location of existing driveway entrances/exits. The Applicant shall ensure improvements to remain, or any new improvements required in the approved plan, are maintained in a safe condition for the use of vehicles and pedestrians for as long as the improvements are needed to serve affected buildings until the Project is completed. Prior to City approval of the construction management plan, the Applicant shall obtain approval of the Orange County Fire Authority (OCFA) and provide proof of OCFA approval to the Community Development Director. As reasonably determined by the Community Development Director and Public Works Director, the plan shall be implemented and periodically updated prior to commencement of any project phasing.

97-96. Prior to the issuance of a grading permit, the Applicant shall prepare a Parking Management Plan to update the reciprocal parking approval granted by the County of Orange as part of UP-3891 (which approved reciprocal parking on the following parcels: APN 620-211-18, 25250 La Paz Road; APN 620-211-15, 25252 La Paz Road; and 25254 and 25260 La Paz Road, APN 620-211-17) to demonstrate that, as a result of the proposed development, APN 620-211-18, 25250 La Paz Road, and APN 620-211-15, 25252 La Paz Road meet current parking requirements in Laguna Hills Municipal Code Section 9-44. The Parking Management Plan shall be subject to review and reasonable approval by the Community Development Director and Public Works Director. The

Parking Management Plan shall include the following measures to be enforced by the property owner, management company, and/or operator:

- a. Senior Living Resident and Guest Parking:
 - i. Parking within the residential parking structure for the Project shall be limited to residents of the residential building, their guests, and employees serving the residential building.
 - ii. All residents shall be assigned or granted access to parking spaces within the on-site residential parking structure.
 - iii. Guests of the tenants senior living facility shall be directed to park in appropriately assigned and signed parking spaces within the parking structure.
 - iv. All residents of residential building, their guests, and employees serving the residential building shall be directed to utilize the available parking within the residential parking structure and that use of parking spaces within the adjacent commercial parcels that are intended to serve the employees, patrons, and guests of the uses on such adjacent parcels for routine or overnight vehicle parking or storage by residents and guests of the residential building is strictly prohibited. These requirements shall be enforced through lease terms, rules, signage, and/or other mechanisms.
- b. Enforcement: The applicant shall implement and maintain an effective enforcement strategy that outlines measures for monitoring, compliance, and enforcement of the parking requirements which may include but is not limited to:
 - i. Issuance of parking permits;
 - ii. Towing policies for unauthorized vehicles;
 - iii. Periodic parking audits;
 - iv. Signage in compliance with California Vehicle Code Section 22658 notifying the public that public parking is prohibited, and that vehicles parked in violation of the posted parking requirements will be towed at the vehicle owner's expense. Posted signage will make clear that occupants and visitors of residential buildings are prohibited from parking in commercial spaces.
- c. Ongoing Compliance and Reporting: The Parking Management Plan shall include a description of how each strategy will be implemented, and include details describing when and how the strategies will be implemented

including days of the week, time of day, locations, equipment and/or personnel to be included, permanent and temporary fixtures, and any other information determined by the Community Development Director to be necessary. Ongoing compliance shall be subject to monitoring, and the City may require periodic updates or documentation demonstrating continued adherence to this condition.

~~98-97.~~ The Parking Management Plan shall include a description of how each strategy will be implemented and include details describing when and how the strategies will be implemented including days of the week, time of day, locations, equipment and/or personnel to be included, permanent and temporary fixtures, and any other information determined by the Community Development Director to be necessary.

CONSTRUCTION ACCESS

~~99-98.~~ During construction of the Project, the Applicant shall maintain adequate site vehicular and pedestrian ingress and egress for customers of adjacent commercial uses and utilize temporary directional signage in the public right-of-way as needed to the reasonable satisfaction of the Public Works Director and Community Development Director. Required directional signage shall comply with City standards and specifications, including but not limited to, the CalTrans design manual, the California Manual of Uniform Traffic Control Devices, and/or as recommended by the American Association of State Highway and Transportation Officials (AASHTO). Required private directional signage shall be provided as appropriate at the reasonable discretion of the Community Development Director.

~~100-99.~~ During any construction, adequate emergency access for police, fire, and paramedic vehicles, to the standards of, and approval of, the OCFA, shall be maintained on the Subject Property at all times.

~~101-100.~~ Prior to the issuance of any demolition, grading, building or other permit within a District, the Applicant shall submit a construction staging plan to the Community Development Director identifying areas to be used for equipment and material storage, placement of construction trailers, portable restrooms, delivery areas for loading and unloading of materials and equipment, construction waste diversion processing, and construction employee parking. The Applicant shall periodically submit an updated construction staging plan, as needed and/or when reasonably requested by the Community Development Director. Appropriate pedestrian and vehicular safety barriers shall be installed in all areas as required by the Community Development Director prior to the issuance of permits. In addition, prior to the issuance of any permits within a District, an on-site pedestrian and vehicle parking circulation plan shall be

submitted to the City for review and approval by the Public Services Director and Community Development Director identifying pedestrian and vehicle access, including temporary parking for disabled patrons for businesses that will remain open during construction.

~~102.~~101. During the course of construction, the Applicant shall immediately respond to requests made by a City inspector to reasonably resolve any public safety or access issues identified during the work. Modifications to an approved construction staging plan shall be made when requested by a City inspector within 48 hours, or as soon as possible as determined by the Community Development Director.

AFFORDABLE HOUSING OBLIGATIONS

~~103.~~102. Applicant has offered to, and shall, (1) limit occupancy of all units in the Project to senior citizens and qualified members of their household, as defined in Sections 51.3 and 51.11 of the Civil Code, and (2) reserve at least eighteen (18), or ten percent (10%), of the apartment units in the project for rental and occupancy by very low-income households, as defined in Section 50105 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code, (the “affordable units”) for a minimum period of 55 years from issuance of a Certificate of Use and Occupancy.

~~104.~~103. In order to enable the City to adequately enforce the proposed age restrictions of all units and the continued affordability of all affordable rental units, prior to issuance of a building permit for any structure in the Project, the property owner(s) shall enter into and record an affordable housing regulatory agreement (“regulatory agreement”) with the City, in a form acceptable to the City Manager and the Applicant. The City Manager shall be authorized to enter into and implement the regulatory agreement on behalf of the City. The regulatory agreement shall be prepared by the City at the Applicant’s expense, and the Applicant shall reimburse the City for the actual fees and costs incurred by the City in conjunction with negotiation and preparation of the regulatory agreement and review of the initial marketing plan and management plan required as part of the regulatory agreement. Prior to the City commencing preparation of a regulatory agreement, the Applicant shall execute a reimbursement agreement with the City, in a form approved by the City Attorney, and provide a deposit in an amount equal to the estimated reasonable cost to be incurred by the City for negotiation and preparation of the regulatory agreement and review of the initial marketing plan and management plan, as determined by the City Manager in his or her reasonable discretion. Unless otherwise provided by State law or determined by the City Manager, the

regulatory agreement shall include provisions addressing or providing for the following:

- a. Limiting occupancy of all units in the Project to qualified residents and qualified permanent residents, as defined in Sections 51.3 and 51.11 of the Civil Code.
- b. The number of affordable units of each bedroom count and model type shall be generally proportionate to the mix of units in the Project overall. Accordingly, a minimum of seven (7) two-bedroom units, nine (9) one ~~(1)~~ one-bedroom units, and two (2) studio units shall be reserved and allocated as very low-income affordable units at all times; provided, however, that the property owner may substitute a larger unit for a smaller unit.
- c. The affordable units shall be “floating” units that are not permanently designated and shall, at all times, be distributed throughout the development and not congregated within a certain area of the Project, unless the Applicant provides substantial evidence to the City that complying with this requirement would make provision of the affordable units infeasible.
- d. The affordable units shall be constructed concurrently with the market rate units.
- e. The affordable units shall be constructed and maintained with the same exterior appearance and interior features, fixtures, and amenities and shall use the same type and quality of materials as provided for market rate units. Finishes and features shall be durable, of good quality, and consistent with contemporary standards for new housing.
- f. Occupants of the affordable units shall have the same access to the common entrances of the building as the occupants of market rate units and shall be provided or have access to the same amenities as the occupants of market rate units.
- g. The owner shall verify and certify, prior to the initial occupancy, and annually thereafter, that each tenant household occupying each affordable unit meets the applicable income and eligibility requirements established for the affordable unit, and to annually prepare a compliance report and certify that the affordable units are in compliance with the regulatory agreement.
- h. The owner shall be required to maintain or cause to be maintained the interior and exterior of the project and the site in a decent, safe and sanitary manner, and in accordance with the standard of maintenance of first class multifamily rental senior apartment complexes within Orange County.

- i. The owner shall be required to maintain, tenant leases, income certifications, and other books, documents, and records related to the sale or rental of the affordable units and operation of the project for a period of not less than five (5) years after creation of each such record; to allow the City to inspect any such books, documents, or records and to conduct an independent audit or inspection of such records at a location that is reasonably acceptable to the City Manager upon prior written notice; and to permit the City and its authorized agents and representatives to access the property and examine the housing units and to interview owners, occupants, tenants and employees for the purpose of verifying compliance with the regulatory agreement.
- j. The regulatory agreement shall contain uniform provisions regarding property management and management responsibilities and ~~shall~~may require the owner to prepare and obtain the City's approval of a marketing and management plan for the project prior to the issuance of a Certificate of Use and Occupancy for any portion of the Project. The marketing and management plan shall address in detail, without limitation, the following matters: (i) how the owner plans to market the affordable units to prospective tenant households; (ii) procedures for the selection of tenants of affordable units, including a description of how the owner plans to certify the eligibility of tenant households; (iii) procedures for annually verifying income and recertifying the eligibility of tenants of affordable units; (iv) the standard form(s) of rental agreement(s) the owner proposes to enter into with tenants of affordable units; (v) procedures for the collection of rent; (vi) procedures for eviction of tenants; (vii) procedures for ensuring that the required number and unit size mix of affordable units is maintained and that affordable units do not become congregated to a certain area of the building or project; (viii) procedures for complying with the owner's monitoring and recordkeeping obligations; (ix) the owner's property management duties; (x) the owner's plan to manage and maintain the project and the affordable units; (xi) the rules and regulations of the property and manner of enforcement; and (xii) and a program addressing security and crime prevention at the project.
- k. The regulatory agreement shall contain a provision requiring the owner to pay the City an annual administration fee to reimburse the City for the estimated reasonable costs incurred by the City in monitoring the owner's compliance with, and otherwise administering, the regulatory agreement, including, but not limited to, the City's review of annual compliance reports and conduct of inspections and/or audits.

- l. The regulatory agreement shall require the owner, at its expense, to defend (with counsel acceptable to City and subject to approval by owner), indemnify, and hold harmless City, and its officers, agents, employees and representatives from any and all losses, liabilities, claims, lawsuits, causes of action, judgments, settlements, court costs, attorneys' fees, expert witness fees, and other legal expenses, costs of evidence of title, costs of evidence of value, and other damages of whatsoever nature arising out of or in connection with owner's failure to perform its obligations under the agreement, the owner's ownership or operation of the site, or the development of the project, except for such liability arising from the gross negligence or willful misconduct of City.
- m. The regulatory agreement shall remain a senior, non-subordinate covenant and as an encumbrance running with the land for the full term thereof. In no event shall the regulatory agreement be made junior or subordinate to any deed of trust or other documents providing financing for the construction or operation of the project, or any other lien or encumbrance whatsoever for the entire term of the required covenants.

PROTECTION OF TRIBAL CULTURAL RESOURCES

~~105-104.~~ The statutory infill housing exemption established by AB 130 (Public Resources Code Section 21080.66) became effective on June 30, 2025. Prior to that date, the City had engaged in tribal consultation regarding the project pursuant to AB 52. Tribal cultural resources mitigation measures were identified and tribal consultation was closed. ~~The Applicant has taken the position that~~ While the City and Applicant agree that further tribal consultation under Public Resources Code Section 21080.66 is not required because tribal consultation was conducted pursuant to AB 52, the City nonetheless, in an abundance of caution, notified the Tribes of the Applicant's invocation of AB130 and invited further consultation pursuant to that process. The Tribes either did not respond or declined further consultation. The Applicant shall thus comply with the following enforceable agreement reached between the City and the tribes that participated in the tribal consultation for this Project pursuant to AB 52 from January 23, 2025 to May 12, 2025, as follows:

- a. The Applicant shall retain Native American Monitors from the following Native American tribes that consulted during the AB 52 process for the Project: Gabrieleno Band of Mission Indians – Kizh Nation; Gabrieleno Tongva Indians of California; and Juaneno Band of Mission Indians, Acjachemen Nation. The monitors shall be retained prior to the commencement of any ground-disturbing activity for the subject Project at all project locations (i.e., both on-site and any off-site locations that are

included in the Project description/definition and/or required in connection with the Project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.

- b. A copy of the executed monitoring agreements shall be submitted to the Community Development Director prior to the commencement of any ground-disturbing activity or the issuance of any permit necessary to commence ground-disturbing activity.
- c. The Applicant shall require the monitors to complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the tribes. Monitoring logs will identify and describe any discovered tribal cultural resources (TCRs), including, but not limited to, Native American cultural and historical artifacts, remains, and places of significance, as well as any discovered Native American (ancestral) human remains and burial goods. The Applicant shall require that copies of monitoring logs will be provided to the City upon written request to the tribes.
- d. On-site tribal monitoring shall conclude upon either of the following: (1) written confirmation to the Tribes from a designated point of contact for the Applicant that all ground-disturbing activities and phases that may involve ground-disturbing activities on the Project site or in connection with the Project are complete or (2) a determination and written notification by the tribes or designee that no future, planned construction activity and/or development/construction phase at the Project site possesses the potential to impact TCRs.
- e. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Native American Monitors. The tribes will recover and retain all discovered TCRs in the form and/or manner the tribes deem appropriate, in the tribes' sole discretion, for any purpose the tribes deem appropriate, and for any purposes, including for educational, cultural, and/or historic purposes.
- f. Native American human remains are defined in Public Resources Code, Section 5097.98(d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called

associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute. If Native American human remains and/or grave goods are discovered or recognized on the project site, then PRC Section 5097.98 and California Health and Safety Code Section 7050.5 shall be followed. Human remains and grave/burial goods shall be treated alike per PRC Sections 5097.98(d)(1) and (2). Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

~~106-105.~~ The ~~Applicant has taken the position that the~~ statutory infill housing exemption in AB 130 (Public Resources Code Section 21080.66) applies to the Project. The Applicant shall thus comply with the following applicable conditions required by Public Resources Code Section 21080.66:

- a. Each tribe shall designate its own monitor.
- b. The Applicant shall require that any tribal monitor designated by the tribe comply with Applicant's site access and workplace safety requirements.
- c. The Applicant shall compensate the tribal monitor at a reasonable rate, as determined by the California Native American tribe, that aligns with customary compensation for cultural resources monitoring, taking into account such factors as the scope and duration of the project.
- d. The Applicant shall avoid all tribal cultural resources where feasible in accordance with Public Resources Code Section 21084.3(a). In furtherance of this requirement, where feasible, the Applicant shall provide deference to tribal preferences regarding access to spiritual, ceremonial, and burial sites, and incorporate tribal traditional knowledge in the protection and sustainable use tribal cultural resources and landscapes.
- e. All treatment and documentation of tribal cultural resources shall be conducted in a culturally appropriate manner, consistent with Public Resources Code § 21083.9.
- f. The Applicant shall apply tribal ecological knowledge into habitat restoration efforts undertaken by the project as applicable to the specific environmental context and conditions of the project.
- g. The Applicant shall comply with Section 7050.5 of the Health and Safety Code and Public Resources Code Section 5097.98, including immediate work stoppage upon discovery of human remains or burial grounds, and

treatment in accordance with applicable law and in consultation with the affected California Native American tribe.

- h. The Applicant shall complete a California Historical Resources Information System archeological records search and a tribal cultural records search shall be completed for the project site.
- i. The Applicant shall submit a Sacred Lands Inventory request to the Native American Heritage Commission.

HAZARDOUS SUBSTANCES

~~107-106.~~ The Applicant and Project shall be subject to the following required Conditions pursuant to subdivision (c) of Section 21080.66 of the Public Resources Code:

- a. The Applicant shall complete a phase I environmental assessment, as defined in Section 78090 of the Health and Safety Code.
- b. If a recognized environmental condition is found, the Applicant shall complete a preliminary endangerment assessment, as defined in Health & Safety Code Section 78095, prepared by a qualified environmental assessor to determine the existing of any release of a hazardous substance on the site and to determine if the potential for exposure of future occupants to significant health hazards from any nearby property or activity.
- c. If a release of a hazardous substance is found to exist on the Project site, no Certificate of Use and Occupancy shall be issued until the Applicant provides satisfactory evidence to the City that the release has been removed or any effects of the release have been mitigated to levels required by current federal and state statutory and regulatory standards.
- d. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, no Certificate of Use and Occupancy shall be issued until the Applicant provides satisfactory evidence to the City that the effects of the potential exposure have been mitigated to levels required by current federal and state statutory and regulatory standards.

~~108-107.~~ Applicant has provided the City with a Phase I Environmental Site Assessment (ESA) prepared by BBG Assessments, LLC in 2021 (Exhibit D) and a Phase II ESA prepared by Wies Environmental in 2022 (Exhibit E). According to the Phase I ESA completed by BBG, different dry cleaners occupied 25260 La Paz Road, Suite M, on the project site from the 1970s to 2017 (BBG 2021). The Phase II ESA conducted by Weis Environmental in 2022 confirmed that tetrachloroethene (PCE) was released from the former cleaner's operation at the Project site, resulting in contamination in soil vapor beneath

the former cleaner's space (Weis 2022). VOC contamination was not identified in soil samples, indicating that contamination at the site is likely limited to soil vapor; however, PCE could be present in soils beneath the existing two-story retail building, ~~as these were not investigated as part of the Phase II ESA~~. Soil vapor impacts were generally limited to the southwest corner of the retail strip, beneath the former cleaner's operations. The release is not considered to be a threat to underlying groundwater resources (Weis 2022). However, if not properly managed, contaminated soil and soil vapor could be released during construction, and, during operation, vapor intrusion into new residential buildings could occur. Therefore, the Project shall be subject to the following Conditions:

- a. Prior to commencement of any demolition or construction activities, Applicant shall prepare and obtain City approval of a Hazardous Materials Contingency Plan (HMCP) that addresses potential impacts in soil and soil vapor from chemical releases on or near the project site. The HMCP shall include training procedures for identification of contamination, and shall describe procedures for assessment, characterization, management, and disposal of hazardous constituents, materials, and wastes in accordance with all applicable state and local regulations. Contaminated soils and/or groundwater shall be managed and disposed of in accordance with local and state regulations. The HMCP shall include health and safety measures, which may include but are not limited to periodic work breathing zone monitoring and monitoring for volatile organic compounds using a handheld organic vapor analyzer in the event impacted soils and/or soil vapor are encountered during excavation activities. Air monitoring will also comply with South Coast Air Quality Management District Rules. The Applicant and/or its designee shall implement the HMCP during construction activities for the Project.
- b. Applicant shall implement the recommendations set forth in the Phase II ESA to mitigate the PCE condition at the Site, by completing the following:
 - i. Upon demolition of the Site building in the area of the former cleaners, Applicant shall retain a qualified professional to conduct relatively shallow supplemental soil sampling and analysis in the rear area of the former cleaners tenant space. Results of this sampling shall be provided to the City before any grading or excavation activity is commenced.
 - ii. If hot spots of PCE are identified in soil, Applicant shall excavate any shallow impacted soils and remove such soil to a landfill facility for

disposal in compliance with all applicable federal, state and local statutory and regulatory requirements.

- iii. Upon demolition of the Site building and other paving in the area of the former cleaners, Applicant shall retain a qualified professional environmental assessor to conduct additional soil gas sampling and analysis to evaluate the potential off-gassing of the vapor cloud condition at the Site. The results of said sampling and analysis shall be provided to the City prior to the issuance of a grading permit.
- iv. The Applicant shall implement all recommendations of the environmental assessor and implement all mitigation deemed warranted by the assessor, DTSC, and/or the Orange County Department of Environmental Health prior to issuance of a grading permit.

109.108. The Applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM) and Lead-Based Paints (LBP), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and South Coast Air Quality Management District, Rule 1403 as may be amended. Demolition or renovation plans and contract specifications shall incorporate appropriate abatement procedures for the removal of ACM and LBP. Evidence of compliance shall be submitted to the City upon request.

PASSED, APPROVED, AND ADOPTED this 23rd day of September, 2025.

JOSHUA SWEENEY, CHAIR

ATTEST:

JENNIFER LEE, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Jennifer Lee, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. _____ adopted by the Planning Agency of the City of Laguna Hills,
California, at a Regular Meeting thereof held on the 23rd day of September, 2025, by the
following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JENNIFER LEE, CITY CLERK

USE-0147-2023 – La Paz Village Conditions of Approval

1. The following Conditions of Approval (“Conditions”) shall be binding and enforceable against, and, whenever used herein, the term “Applicant” shall mean and refer to, each of the following: the project applicant, Nick Buchanan, on behalf of La Paz Village Investors, LLC, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns.
2. Unless the context dictates otherwise, whenever the term “this Permit” is used in the following Conditions of Approval, it shall collectively refer to USE-0147-2023 (SDP/PUP) approved pursuant to this Resolution. The City reserves the right to seek to revoke this Permit for violations of these Conditions of Approval.
3. Unless the context dictates otherwise, whenever the term “Project” is used in the following Conditions of Approval, it shall collectively refer to the plans presented at the September 23, 2025, meeting of the Laguna Hills Planning Agency (Plan or Plans), and other studies and exhibits submitted to the City by the Applicant to depict the improvements to be constructed on the Applicant’s property, consisting of an approximately 2.5-acre parcel located at 25254 and 25260 La Paz Road (APN 620-211-17) (the “Subject Property”) and the adjacent parcels located at 25250 and 25252 La Paz Road (APNs 620-211-18 and 620-211-15), and 25732 and 25758 La Paz Road (APN 620-211-09) as part of the Project, as modified by these Conditions of Approval.
4. The application is a plan for location and design of uses, structures, features, and materials submitted by this application and shown on the approved plans. Development shall be consistent with the approved Plans, as modified by these Conditions of Approval, and all applicable architectural design guidelines and all other development standards specified in the Laguna Hills Municipal Code (“LHMC”). Any material relocation, alteration, modification, or addition to any use, structure, feature, or material, not specifically approved shall require an application for a Changed Plan (CP) to USE-0147-2023 (SDP/PUP), unless the Community Development Director (“Director”) determines the proposed change is consistent with the provisions and the spirit and intent of the original approval. The Director may approve minor modifications to these Conditions of Approval through the Changed Plan process.
5. To the fullest extent permitted by law, the Applicant shall, at its sole cost and expense, protect, defend, indemnify, and hold harmless the City, its elected and appointed officers and officials, employees, agents, departments, agencies, authorized volunteers, consultants, attorneys, boards, commissions, and committees, and instrumentalities thereof (“Indemnitees”), from and against any and all claims, liabilities, losses, fines, demands, penalties, lawsuits, writs of mandamus, and any other claims or actions or proceedings of any kind whatsoever (whether legal, equitable, declaratory, administrative or

- adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to, arbitrations, mediations, and other such procedures), judgments, orders and decisions (collectively "Claims" and "Actions"), brought against the Indemnitees, which seek to attack, challenge, modify, set aside, void, or annul any action of or any permit or approval issued by the Indemnitees (including actions approved by the voters of the City) for, in connection with, or concerning the approval of this Permit. It is expressly understood and agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the defense of the Indemnitees for the Claims and Actions, and if the Applicant takes any actions or asserts any position with which the City disagrees, the City shall be entitled to appoint its own attorney at its own expense. The City shall promptly notify the Applicant of any Claims and Actions brought against the Indemnitees and shall cooperate in the defense of any such Claims and Actions. If the Applicant fails to so defend the Claims and Actions, the City shall have the right but not the obligation to do so and, if it does, the Applicant shall promptly pay the City's full cost thereof.
6. Except as otherwise mandated by State law, which includes, but is not limited to, the rights afforded by the Housing Accountability Act and the Builder's Remedy, approval of this Permit constitutes approval of the proposed Project only to the extent that it complies with the City's Development Code and any other applicable zoning regulations in effect as of December 14, 2022. Approval does not include any action or findings as to compliance or approval of the Project regarding any other applicable ordinance, regulation, or requirement.
 7. Approval of this Permit is expressly conditioned on the Applicant's written agreement with these conditions of approval. The Applicant shall agree in writing to these conditions of approval within 30 days of the Planning Agency's approval, or this Permit and all rights granted hereunder shall not be effective.
 8. The conditions of Project approval set forth herein include certain development impact fees and other exactions. Such fees and exactions are considered vested as of the date of the submittal of the SB330 application on December 14, 2022. Otherwise, the Mitigation Fee Act, including but not limited to, Government Code §66020(d), applies and these conditions constitute written notice of the amount of such fees. The Applicant is hereby notified that the 90-day period in which the Applicant may protest the fees, dedications, reservations, or exactions imposed on this Project through the Conditions of Approval, commencing from the date of approval of the Project, has begun.

The Project is subject to the following development impact fees in effect as of December 14, 2022:

- a. Citywide Park Fee of \$15,636.00 per unit pursuant to LHMC Chapter 8.07 and City Council Resolution No. 2018-11-13-3.
9. Pursuant to City Council Resolution No. 2017-07-11-2, the Applicant shall reimburse the City for any outstanding fees for processing of this Permit within 60 days of the Planning Agency's approval. The Applicant shall be responsible for payment of all applicable, posted fees pertaining to development of the Project pursuant to the City's Comprehensive Fee Schedule. All outstanding fees and expenses shall be paid in full prior to a final inspection of the Project improvements.
10. Unless a time extension is granted pursuant to Laguna Hills Municipal Code Section 9-92.080(L), this Permit shall expire and be of no further force or effect if the subject development and construction necessary and incidental thereto is not initiated and commenced within two (2) years of the Planning Agency's approval and thereafter diligently advanced until completion of the Project. In the event construction of the Project is commenced, but not diligently advanced until completion, the rights granted pursuant to this Permit shall expire if the building permits for the Project expire. Initiated and commenced is defined as issuance of a precise grading permit within two years of the date of approval of the Subject Project and commencement of grading prior to expiration of the grading permit, and subsequently, issuance of a building permit for the foundation of the building shell prior to the expiration of the grading permit and commencement of construction prior to expiration of the building permit.
11. Within 48 hours from project approval, the Applicant shall submit to the City a check in the amount of \$50.00, made payable to the Orange County Clerk-Recorder, for filing the Notice of Exemption.

PLANNING DIVISION

12. The Applicant shall maintain the Subject Property in compliance with property maintenance standards as set forth in LHMC Chapter 9-74. This includes prohibitions on outdoor storage and maintenance of the premises that cause obnoxious odors.
13. No permanent overhead utilities shall be installed.
14. Prior to issuance of any grading permits, the Applicant shall submit the Project's grading plan to the Community Development Director for review and approval. The grading plan shall be consistent with the architectural site plan as approved

by this Permit to the reasonable satisfaction of the Community Development Director.

15. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan to the Community Development Director for review and approval. The plan shall demonstrate compliance with the provisions of Laguna Hills Municipal Code Chapters 9-46 and 9-47 in effect on December 14, 2022, including sufficient wall screening, landscaping, planter size and shade trees along the site perimeter and within the Project parking lot, installation of "Smart" landscape irrigation controllers, low precipitation-rate sprinkler heads, and water efficient landscaping, as applicable.
16. Prior to the issuance of a building permit, the Applicant shall submit a lighting and photometric plan to the Community Development Director for review and approval. The Community Development Director may require additional lighting if lighting levels at approved pedestrian walkways and internal intersections under construction are insufficient to comply with the requirements of LHMC Chapter 9-40 in effect on December 14, 2022, when completed. The plan shall include a photometric analysis of proposed lighting and shall comply with lighting requirements of the Laguna Hills Municipal Code, including that light and glare shall not be projected beyond the boundaries of the Subject Property to the reasonable satisfaction of the Community Development Director. The City may withhold issuance of a Certificate of Use and Occupancy for any building or portion thereof if the lighting associated with such building has not been installed.
17. Outdoor security and other lighting shall be designed and maintained so as not to illuminate beyond the Subject Property to the reasonable satisfaction of the Community Development Director. All exterior lights shall be focused inward and away from surrounding uses and adjacent residential properties. Prior to the issuance of a building permit, the Applicant shall provide an updated photometric plan showing compliance with the Laguna Hills Municipal Code. Pursuant LHMC Section 9-40-170, exterior lighting shall be shielded or recessed so that direct glare and reflections are contained within the boundaries of the parcel, and shall be directed downward and away from adjoining properties and public rights-of-way. No lighting shall blink, flash, or be of unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity, and height to the use served.
18. Prior to issuance of a Certificate of Use and Occupancy, the Applicant shall submit a Master Sign Program for review and approval pursuant to Laguna Hills Municipal Code Chapters 9-42 and 9-92 in effect on December 14, 2022.

Signage within the parking structure shall be included as part of the Master Sign Program for the property.

19. The Applicant shall comply with all temporary and permanent sign requirements of the City's Sign Ordinance, as specified in Laguna Hills Municipal Code Chapter 9-42 in effect on December 14, 2022. The Applicant shall not use or display any prohibited signs listed in LHMC Section 9-42.260.
20. Prior to the issuance of a building permit, the Applicant shall submit a striping and signage plan that includes information demonstrating compliance with the requirements of Subsection K of Laguna Hills Municipal Code Section 9-44.060 (Design standards for parking facilities) in effect on December 14, 2022. Subsection K establishes criteria that apply to the siting of all parking facilities, whether above or below grade in structures or at surface level. The plan shall be reviewed and approved as part of the building permit review process.
21. This Permit only authorizes use of the Subject Property as an independent living, age restricted, rental apartment development and does not authorize the establishment of a Community Care Facility or Residential Care Facility, as defined in LHMC Chapter 9-04. This Approval does not prohibit applicant from seeking to add Community Care Facility and/or Residential Care Facility for the Elderly use(s) in the future as long as Applicant complies with all state, Orange County Fire Authority, and City of Laguna Hills requirements for use of the Project (in whole or in part, as the law may allow) for such level of service.
22. Prior to issuance of a grading permit, Applicant shall provide evidence to the reasonable satisfaction of the Community Development Director that there are no easements (including, but not limited to, easements for reciprocal access and/or parking or utilities) that conflict with the proposed Project.

BUILDING DIVISION

23. The Applicant shall be responsible for ensuring all applicable building permits are obtained for any activity requiring a permit. Construction shall comply with the 2019 California Building, Plumbing, Mechanical, Electrical, and Green Building Codes, as may be amended, or the applicable California Building Code in effect at the time of building permit issuance. Any required documents submitted for the purpose of building permit issuance shall be accurately labeled and reflect all work to the reasonable satisfaction of the Community Development Director.
24. At the time of document submittal for permit issuance, the Applicant shall demonstrate compliance with California Disabled Accessibility requirements, as required by Chapter 11 of the California Building Code if applicable.

25. The Applicant shall comply with all general construction water quality requirements, as required by the LHMC 5-36.
26. Prior to issuance of any building permit, the Applicant shall submit to the Community Development Director all required approvals from the Orange County Health Department.
27. Prior to issuance of each building permit, the Applicant shall submit to the Community Development Director all required approvals from the Orange County Fire Authority.
28. Prior to issuance of each building permit for the demolition of any existing building, the Applicant shall submit to the Community Development Director evidence of all required approvals from South Coast Air Quality Management District or provide verification of plan submittal, as applicable.
29. The Applicant shall demonstrate compliance with all applicable building energy efficiency standards established by the California Energy Commission that are in effect at the time of the issuance of any permit.
30. The Project shall comply with LHMC Chapter 5-28 (Smoking and Sale of Tobacco Products). Required signage and notices shall be installed prior to the issuance of a Certificate of Use and Occupancy and commencement of any use.
31. During construction, adequate emergency access shall be maintained to the site at all times in accordance with any requirements of the Orange County Fire Authority (OCFA).
32. Prior to the commencement of any work, the Applicant shall provide a contact number to the Community Development Director for the public to call concerning dust, noise, or other construction-related impacts. The information shall also be posted on site in a manner approved by the Community Development Director.

ORANGE COUNTY FIRE AUTHORITY (OCFA)

33. Prior to issuance of grading permits, the applicant must address and correct all outstanding OCFA PR105 Conceptual site plan and design review comments, corrections, and/or concerns as outlined in the August 28, 2025 letter (Exhibit A), including complying with any future conditions imposed by OCFA.
34. The applicant must formally submit the following plans to OCFA and gain OCFA approval before City grading and building permits issuance.
 - a. OCFA Fire Master Plan
 - b. Architectural Plan, Construction Drawings

35. The applicant must formally submit the following plans (as applicable) to OCFA after the fire master plan and architectural plans are approved by OCFA.
 - a. Underground Fire Line
 - b. Fire Sprinkler Systems
 - c. Fire Alarm Systems
 - d. Emergency Power Generator Systems
 - e. Building Energy Storage Battery Systems
 - f. Access / Egress Control Systems
 - g. Security Vehicle Gates, perimeter gates, and doors

PARKING STRUCTURES

36. The parking structure shall be designed to include pavement treatments/materials or finishing techniques that reduce noise generated by automobile tire squeal. All pavement treatments and materials shall be subject to the reasonable approval of the Community Development Director prior to building permit issuance for any parking structure.
37. Prior to building permit issuance for the parking structure, the Applicant shall confer with the Orange County Sheriff's Department (OCSD) to identify features consistent with best practices identified in "Crime Prevention Through Environmental Design in Parking Facilities" or other standards acceptable to OCSD that could be incorporated into the parking structure for which a building permit is requested.

MECHANICAL EQUIPMENT

38. Mechanical equipment, storage, trash areas, and utilities installed at ground level shall be architecturally screened by solid or semi-solid material from public view to the reasonable satisfaction of the Community Development Director. The method of screening shall be architecturally compatible in terms of materials, color, shape, and size. The screening design shall blend with the building design and include landscaping when on the ground. For rooftop mechanical equipment, building parapet walls shall be at least as high as the equipment and vents installed on each building. For any roof-top equipment, in lieu of fully screening the equipment, the Applicant may provide a "line of sight" study to the Director that indicates no screening is required given the location of mechanical equipment on the roof of a building relative to one or more viewpoints within the Project (as reasonably determined by the Community Development Director) at finished grade. Roof mounted solar panels are excluded from this requirement so long as the overall height of the equipment

is as close to the height of building parapet walls as possible, or where integrated into an accessory building such as a roof top carport.

PUBLIC WORKS DEPARTMENT

39. Prior to the issuance of any grading permit or building permit, security instruments shall be posted guaranteeing construction of on-site and off-site improvements in accordance with LHMC Section 10-16.300, and these Conditions of Approval. Security instruments shall include a grading bond and a landscape bond, unless the latter is waived by the Community Development Director.
40. The Applicant shall comply with the recommendations in the Geotechnical Evaluation Report prepared for the Project (Exhibit B).
41. Prior to the issuance of a Certificate of Use and Occupancy, the applicant shall pay for all required geotechnical testing services for improvements in the public right-of-way, which shall be invoiced by the City based on time and materials. These fees will be in addition to all applicable encroachment, grading, subdivision, etc. inspection fees. These fees must be paid in full prior to release of any grading bonds.
42. Prior to the issuance of a building permit, the Applicant shall submit a grading and erosion control plan for any on-site drive aisle, parking space, sidewalk and/or other hardscape improvements. As applicable, the grading plan shall show the construction of all curb and gutter, asphalt and concrete pavement, sidewalk, storm drain, sewer and water systems (for reference only) and other improvements, and must include a horizontal control plan.
43. Prior to release of any grading bonds, the Project improvements must be completed to the reasonable satisfaction of the City Engineer. This includes completion of all punch list items, approved mylar as-builts, underground inspections (for storm drain systems, if any), required paperwork (such as soils reports, certifications, etc.). All associated permits will be considered active, until all items (including paperwork) have been completed to the reasonable satisfaction of the City Engineer. All permits must be current (not expired) at time of bond release. The Applicant is advised that there may be permit renewal fees if said permits have expired prior to completion of all above listed items.
44. All grading and storm drain plans shall be prepared on City standard ARCH D size sheets by a licensed civil engineer and shall be submitted to the City Engineer for approval. All landscaping plans shall be prepared on City standard ARCH D size sheets by a licensed landscape architect and shall be submitted to the City Engineer for approval. All plans must be in substantial conformance

with the approved site/concept plans. Plan check and inspection fees shall be paid by the Applicant in accordance with the City's fee schedule.

45. Prior to the release of any grading bonds, all grading, storm drain, and landscaping plans associated with the Project shall be as-built upon completion of the Project. Once the as-built drawings are approved, the Applicant shall provide the City with a duplicate mylar of the plans and scanned PDF or TIFF files of all plans.
46. Prior to the issuance of a precise grading permit, all on-site improvement construction (parking lots, sidewalks, ramps, grading) shall be bonded for with the precise grading plan and permit.
47. Prior to the issuance of any grading permit, erosion control, demolition, and earth moving work shall be bonded for with the rough or precise grading plan and permit, whichever occurs first.
48. Prior to work in the public right-of-way, an encroachment permit shall first be obtained from the City Engineer. The City Engineer at his sole discretion may require the posting of an encroachment permit bond to guarantee the completion of work in the public right-of-way.

PUBLIC WORKS DESIGN CONDITIONS

49. Grading of the Subject Property shall be in accordance with the City of Laguna Hills Grading Code and Manual and to the reasonable satisfaction of the City Engineer. Any grading required outside of the Project boundaries will require either slope easements or right-of-entry letters from the adjacent property owners.
50. Prior to the issuance of a grading permit, the following on site (private property) improvements shall be designed in a manner meeting the approval of the City Engineer in conformance with Laguna Hills Municipal Code Section 10-16.020:
 - a. All provisions for surface drainage.
 - b. All necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff.
 - c. All structural pavement sections for on-site and off-site streets, including all newly constructed or reconstructed parking lots, shall be submitted to and approved by the City Engineer. The soils engineer shall submit pavement section recommendations based on "R" Value analysis of the subgrade soils and approved City traffic indices. In no event shall the minimum pavement sections be less than the City's engineering standard plan minimum pavement sections.

51. Prior to the issuance of any grading permit, the Applicant shall provide a Certified Access Specialist (CAsp) report reviewing existing pathways, sidewalks and access ramps for both on-site access and adjacent to the site access along the accessible pathways for compliance with the Americans with Disabilities Act (ADA) for approval by the City Engineer and the Building Official. Accessible pathways shall not include a path within any drive aisle, except as necessary to cross a drive aisle at 90° to the drive aisle. The CAsp report shall include an implementation plan to correct all deficiencies noted and as reasonably approved by the City Engineer and the Building Official.
52. Prior to the issuance of a Certificate of Use and Occupancy, any sidewalk or pathway not in compliance with ADA standards and the CAsp report, as approved by the City Engineer and the Building Official, shall be reconstructed to the City's standards.
53. Prior to the issuance of a precise grading permit, a horizontal control plan showing dimensioning of drive aisle, driveway, parking stall, and hardscape improvements shall be prepared for review and approval by the City Engineer. Minimum dimensions for drive aisles, driveways, and parking stalls shall adhere to City engineering standard plans and the Municipal Code. The City of Laguna Hills has adopted County of Orange Public Works Standard Plans as its engineering standard plans.
54. Prior to the issuance of a Certificate of Use and Occupancy, the Applicant shall demonstrate to the reasonable satisfaction of the City Engineer that a corner cut-off area is created at the intersection of each driveway serving the Project and a public street that satisfies the requirements of LHMC Section 9-40.160 or otherwise provides traffic vision clearance meeting the corner vision clearance requirements set forth in the California Department of Transportation Highway Design Manual or other applicable published public safety standard.
55. Development of the proposed senior housing Project improvements may result in the uses and/or improvements located on the adjacent parcels within the Village at Laguna Hills located at 25250 or 25252 La Paz Road (APNs 620-211-18 and 620-211-15) becoming nonconforming to, or to increase their nonconformity to, applicable City zoning and development standards. These adjacent parcels are currently owned by the Applicant. Accordingly, prior to issuance of a grading permit for the Project, the Applicant shall ensure that any such nonconformities, or increases in nonconformity, on these adjacent parcels are eliminated or prevented through approved improvements on said parcels or other means reasonably acceptable to the Community Development Director. Specific examples of said nonconformities, or increases in nonconformities, that will or may result from development of the proposed

Project that must be eliminated or prevented prior to the issuance of grading permits include, but may not be limited to, the following:

- a. The Project Plans propose to reduce the width of a shared two-way parking aisle straddling the Subject Property and 25252 La Paz Road (currently improved with Better Buzz Coffee) to less than the minimum dimension required for one-way parking aisles within 25252 La Paz Road after the completion of construction. Laguna Hills Municipal Code Section 9-44 requires that one-way drive aisles in parking lots be no less than 14' wide. The Applicant's proposed plan would result in a one-way drive aisle 10' wide on the Better Buzz Coffee parcel, which is narrower than required by Laguna Hills Municipal Code Section 9-44. Improvements shall be made to the parking lot on the Better Buzz Coffee parcel to ensure this one-way drive aisle is 14' in width or variance approval obtained. The desired drive-aisle may be able to be achieved through the reduction of the size of the existing planter and possible loss of a parking stall, in conjunction with restriping of the parking lot.
 - b. The uses located on the two adjacent parcels currently share access to parking spaces with the uses currently located on the Subject Property. Prior to issuance of a grading permit for the Project, the Applicant shall demonstrate to the reasonable satisfaction of the Community Development Director that each of the two adjoining parcels and the uses thereon meet applicable minimum off-site parking requirements. If restriping or other improvements on the adjoining parcels are required to ensure minimum parking requirements are met, such improvements shall be completed prior to issuance of a grading permit for the Project.
56. Prior to the issuance of a building permit, the Applicant shall provide plans demonstrating compliance with Laguna Hills Municipal Code Section 9-40.200 (Undergrounding of utilities) which states, in pertinent part: "Utilities shall be placed underground. If an above-ground electrical transformer is located outdoors on any site, it shall be screened from view with a solid wall and landscaping and not located in any setback area."

PUBLIC WORKS CONSTRUCTION CONDITIONS

57. Perimeter fencing shall be installed that has green screen material or approved equal. The fence/screen material shall be properly maintained and be free of rips, tears, fraying, graffiti, and any other damage or vandalism.
58. The Applicant shall comply with all requirements of the Orange County Stormwater Program "Construction Runoff Guidance Manual" during the

construction of the Project. The requirements contained in this manual shall be incorporated into the grading plans.

59. All concrete (including sidewalk) that comes in contact with native soils shall contain Type V cement.
60. Prior to the issuance of a Certificate of Use and Occupancy, all uplifted, subsided or severely worn curb, gutter and sidewalk that fronts the Project in the public right-of-way along McIntyre Street shall be removed and replaced. This includes uplifted, subsided or severely worn curb and gutter and sidewalk that was in this condition prior to the start of construction. Limits of removal and replacement will not be marked out until immediately prior to occupancy so that all damage that occurred during construction can be included in the limits of replacement.
61. Prior to the issuance of a Certificate of Use and Occupancy, all City Street pavement restorations shall be completed to the reasonable satisfaction of the City Engineer.
62. If any asphalt pavement cuts are made into existing City roadways, the subject roadway shall be ground down and overlaid from the gutter line to the centerline or median of the roadway for any cuts made in that portion of the roadway, and to the reasonable satisfaction of the City Engineer.
63. During the course of the Project construction, no public streets shall be utilized for temporary storage of any construction materials and no vehicles shall be off-loaded or deliveries or filled with materials on any public street.
64. Prior to the issuance of any grading permits, a haul route plan for all exports/imports from/to the site shall be submitted for review and approval by, and to the reasonable satisfaction of, the City Engineer. The haul route shall not utilize any arterial highway prior to 9:00 am or after 4:00 pm daily. In addition, a construction vehicle routing plan shall be submitted for review and approval by, and to the reasonable satisfaction of, the City Engineer prior to any demolition or construction work.
65. During the course of Project construction, no construction equipment traffic shall access or depart the site during morning or evening traffic peak periods, which are 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., Monday through Friday.
66. During the course of Project construction, the Applicant shall adhere to Laguna Hills Municipal Code provisions limiting hours of construction. Pursuant to LHMC Section 5-24.070, activities associated with construction or grading that generate noise levels in excess of those set forth in LHMC Chapter 5-24 shall

not take place between the hours of eight p.m. and seven a.m. on weekdays, including Saturday, or at any time on Sunday or a federal holiday.

67. If construction commences during the nesting season (February – September), the Applicant shall cause a pre-construction nesting survey to be conducted within 3 days prior to ground disturbing activities to determine the presence/absence of nesting birds. If an active nest is found on the study area, a qualified biologist will establish a buffer around the nest (up to 500 feet for raptors and 300 feet for passerine birds) and ongoing biological monitoring during construction may be required until the nestlings have fledged and the nest is no longer active. The buffer will be established by a biologist based on the sensitivity of the species to disturbance and the proximity to project activities. Construction activities may commence outside of the buffer under the discretion of a monitoring biologist. Once the monitoring biologist has determined the nest is no longer active, the buffer can be removed.
68. The Applicant shall implement all of the following measures during construction, as applicable:
 - a. The project applicant shall comply with all requirements of South Coast Air Quality Management District (SCAQMD) Rule 403 regarding fugitive dust control.
 - b. All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. Equipment check documentation should be kept at the construction site and be available for review by the City.
 - c. Low VOC (i.e., ROG) coatings shall be used that comply with SCAQMD Rule 1113: Architectural Coatings.

PUBLIC WORKS DRAINAGE AND HYDROLOGY CONDITIONS

69. In accordance with Laguna Hills Municipal Code Section 10-16.340, which requires conformance with the Grading Manual, prior to the issuance of a grading permit, a hydrology and hydraulic study (including off-site areas affecting the development) shall be prepared by a qualified civil engineer and approved by the City Engineer. The report shall include detailed drainage studies indicating how the grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood.

70. Prior to the issuance of grading permits or the approval of improvement plans, a recorded drainage acceptance letter for any concentration or increase of drainage runoff to adjacent properties shall be required.
71. All storm drain systems shall be designed and constructed in accordance with the County of Orange Local Drainage Manual, Orange County Public Works Standard Plans, and applicable City standard engineering plans.
72. Prior to the issuance of a Certificate of Use and Occupancy, any storm drains modified by the Project, if any, shall be inspected by the County of Orange Underground Inspection Team (the City will arrange for the inspection). There will be additional fees for this inspection.

PUBLIC WORKS SOLID WASTE AND RECYCLING CONDITIONS

73. The Applicant shall comply with all requirements set forth in Laguna Hills Municipal Code Chapter 5-32.210 and 5-48 (Construction and Demolition Waste Recycling Program) and related CalRecycle regulations. Prior to issuance of building permits, the Applicant shall submit and obtain approval of a waste reduction and recycling plan as prescribed by the C&D Compliance Official and submit all applicable fees and security deposits.
74. Prior to the issuance of a building permit, the Applicant shall provide for review and approval by the City Engineer a trash and recycling plan detailing the expected trash and recycled material volume produced by the Project. Accordingly, all existing and proposed trash bin enclosures shall be sized to accommodate the required number of trash and recycling bins as required by the plan. At a minimum, any trash bin enclosure shall be built according to the City's standard engineering plan, which requires a floor drain connected to the sanitary sewer system and a solid roof to prevent rain water intrusion, and shall accommodate one three-yard trash bin and one three-yard recycling bin (approximate dimensions 40" wide x 82" long) and one organics recycling cart (approximate dimensions 30" wide x 36" long) and enough room for personnel to access the trash bins. No trash bin shall be located outside an enclosure approved by the Community Development Director. If, at any time in the future it is determined by the Public Works Director that the trash enclosure is inadequate, the property owner at its expense shall expand the trash enclosure to accommodate extra bins as evidenced by operations or shall order more frequent trash and recycling bin pick-ups. All trash, storage of cartons, containers, and other discarded items shall be screened from public view at all times. LHMC Section 5-32.040 requires that the storage and collection of mixed solid waste and divertable materials be within enclosures.

75. Prior to the issuance of a Certificate of Use and Occupancy, in accordance with Section 5-32.100 of the Laguna Hills Municipal Code, the applicant shall subscribe to the City's franchise waste hauler's organics recycling service as required by State Senate Bill 1383. Further information can be found here: <https://www.ci.laguna-hills.ca.us/211/Recycling-For-Businesses>
76. Prior to the issuance a grading permit, the Applicant shall provide a will serve letter from the City's franchise solid waste hauler demonstrating that the site and proposed plan of development will allow the franchise solid waste hauler to service the Project.

PUBLIC WORKS STORM WATER / WATER QUALITY CONDITIONS

77. All projects, in conjunction with a grading permit, require the preparation of an erosion control plan in conformance with the City of Laguna Hills Grading and Excavation Code. All erosion control plans shall incorporate Best Management Practices to the maximum extent possible. In addition, erosion control shall be implemented during construction year-round.
78. Prior to the issuance of any grading permit, evidence that proper clearances have been obtained from the San Diego Regional Water Quality Control Board such as the filing of a Notice of Intent to Discharge, shall be provided to the City Engineer. If a permit is required, the Applicant will be required to prepare a Storm Water Pollution Prevention Plan.
79. Prior to the issuance of a Certificate of Use and Occupancy, "No Dumping - Drains to Ocean" shall be stenciled directly above any inlets or an approved stencil shall be used to paint this message on inlets.
80. Prior to issuance of any precise grading permit, a Water Quality Management Plan (WQMP) shall be approved by the City Engineer. The WQMP shall be prepared in conformance with the City's WQMP Instructions and Template. The project design and construction shall comply with the requirements of the latest edition of the City's National Pollutant Discharge Elimination System (NPDES) Permit issued by the San Diego Regional Water Quality Control Board. Copies of the Permit may be downloaded from the Water Board's website at www.waterboards.ca.gov/sandiego. This order and the City's NPDES Local Implementation Plan (LIP) require the City to classify this Project as a priority project. The Applicant will be responsible for complying with the "priority development project" requirements of this Permit, which requires the Project to incorporate source control BMPs and structural treatment BMPs. The Applicant is advised that there are additional plan check fees for the review of this document.

81. Prior to the issuance of a Certificate of Use and Occupancy, all water runoff from the site (including sheet flow), including existing areas, shall be required to be filtered with a water quality device approved by the City Engineer, prior to the discharge of the water to the street gutter or storm drain system. This may require the installation of trench drains the entire width of the entrances to collect and treat sheet flow leaving the site.
82. Prior to the issuance of a Certificate of Use and Occupancy, the property owner shall furnish a recorded copy of a Maintenance Agreement outlining post construction Best Management Practices (BMP's) in accordance with the County of Orange Drainage Area Management Plan Appendix for New Development. The following non-structural BMP's are required to be implemented by the current property owner, and all subsequent property owners to satisfy National Pollution Discharge Elimination System requirements and requirements outlined in the Orange County Drainage Area Management Plan. A copy of these conditions of approval shall be provided to all subsequent property owners. The following BMP's will be required:
 - a. Storage and Repair of Motor Vehicles - The property owner shall not allow motor vehicles stored on the premises to be washed on site, unless a car wash facility is proposed that is connected to the sanitary sewer system. Motor vehicles may be lightly rinsed (with no detergents, soaps, or surfactants) provided that de-ionized water is used sparingly and any runoff is diverted to a landscaped area or collected on-site and disposed of into the sanitary sewer system. Vehicles parked at this facility that show evidence of leaking fluids must be stored with drip pans located to catch the leakage and protected from mixing with stormwater. All hazardous pollutants spilled from stored vehicles shall be cleaned and picked up immediately with an appropriate "dry method" absorbent material and disposed of properly. All spills must be contained and cleaned up on the premises.
 - b. Litter Control - The property owner will be required to implement trash management and litter control procedures in the common areas aimed at reducing pollution of drainage water. The property owner may contract with their landscape maintenance firm to provide this service with the regularly scheduled maintenance, which should consist of litter patrol, emptying of trash receptacles in common areas, and noting trash disposal violations and reporting the violations to the property owner for investigation.
 - c. Trash Enclosures and Dumpsters - The property owner shall post signs on trash enclosure gates that state "Keep Dumpster Lids Closed." The property owner will monitor dumpster usage such that dumpsters are not overfilled

and the dumpster lids can close completely. The property owner shall increase the trash pickup schedule as necessary to prevent dumpsters from overfilling.

- d. Landscape Maintenance - Ongoing maintenance must be consistent with the City's adopted water conservation ordinance, plus fertilizer and pesticide usage consistent with the "County Management Guidelines for Use and Fertilizers and Pesticides." Landscaping irrigation systems shall be adjusted and properly maintained to prevent over spray runoffs.
- e. Green Waste Disposal - Green waste shall not be blown or swept into, or disposed of, in the street, gutter, public right-of-way, or storm drain catch basins or inlets. Leaf blowers, if used, shall be used to move green waste into piles so they can be swept and picked up and disposed of in green waste recycling containers.
- f. Employee Training - The property owner shall prepare a training manual(s) for existing and future employees. The manual should include information on non-point source pollution and how to use proper Best Management Practices (BMPs) to minimize runoff pollutants. Training shall be provided upon hire and at regular intervals thereafter.
- g. Catch Basin/Inlet Inspection - The property owner must inspect all catch basins/inlets on site and clean the catch basins, if necessary, prior to the storm season (no later than October 15 each year).
- h. Lot/Street Sweeping - The property owner must sweep outdoor lots regularly (minimum monthly), and prior to the storm season (no later than October 15 each year). Sweeping shall be done with a vacuum-type sweeper. Under no circumstances are outdoor areas/lots to be rinsed or washed with water unless said rinse/wash water is collected and disposed of properly (i.e. into the sewer).
- i. Catch Basin Stenciling - All catch basins/inlets/outlets on site must be marked using the City's "No Dumping - Drains to Ocean" curb marker or stenciled using an approved stencil shall be used to paint this message on the top of curb directly above the inlet, and on one side of the curb face. Labeling for catch basins is to be inspected regularly and maintained so as to be reasonably legible at all times. The inspection and maintenance is to be performed by the property owner. This stencil is to alert the public/employees to the destination of pollutants discharged into the storm water.
- j. BMP Maintenance - The property owner shall be responsible for implementation of each non-structural BMP and regularly scheduled

cleaning of all BMP structural facilities (catch basin, storm drains, trash enclosures, etc.).

- k. Title 22 CCR Compliance - The property owner must comply with Title 22 of the California Code of Regulations and relevant sections of the California Health and Safety Code regarding hazardous waste management, which will be enforced by County Environmental Health on behalf of the State.
 - l. Haz-Mat Disclosure Compliance - The property owner shall comply with County and City ordinances.
 - m. Uniform Fire Code Implementation - The property owner shall comply with Article 80 of the Uniform Fire Code.
 - n. Spill Response Plan/Kit- The property owner shall develop a spill response plan and maintain a spill response kit on site. Employees shall be properly trained to use the spill response kit. Owner shall maintain absorbent materials in the spill response kit to adequately contain any spills that can be anticipated (i.e. oil drips, engine coolant, etc.).
83. Prior to the issuance of a precise grading permit, the Applicant shall provide plans and supporting documentation for the review and approval of the City Engineer showing that areas requiring regular washing/cleaning (including dumpster areas) are isolated from the storm drain system. No discharge from such areas shall be allowed into the storm drains. This plan may be incorporated into the WQMP.
84. Prior to the issuance of a precise grading permit, the design plans shall include a solid roof over any proposed loading dock(s) and any drains within the proposed loading dock(s) shall be connected to the sanitary sewer system as required by the City's Best Management Practices (BMP) Design Manual dated August 31, 2019, and approved by the California Regional Water Quality Control Board, San Diego Region.
85. Prior to the issuance of a Certificate of Use and Occupancy, catch basin filters shall be installed on all catch basins which drain the subject site, including any existing catch basins. Specification sheets shall be submitted to the City Engineer for approval prior to the installation of the filters.

PUBLIC WORKS WATER, SEWER, AND UTILITIES CONDITIONS

86. The Applicant shall complete all improvements and comply with requirements of the Moulton-Niguel Water District, as set forth in its letter dated February 29, 2024, and/or any subsequent analysis performed by the Water District (Exhibit C). Prior to the issuance of any building permit or grading permit, Applicant shall provide evidence to the City of the Water District's concurrence that all of

its requirements to provide water and sewer service to the Project have been satisfied. Prior to the issuance of a precise grading permit, water and sewer improvement plans shall be approved by the appropriate water district and the City Engineer. All water and sewer facilities shall be constructed in accordance with the appropriate agency's specifications, with all incidental fees paid by the Applicant. These facilities shall be dedicated to the appropriate water district by the Applicant to the reasonable satisfaction of the City Engineer.

87. On-site water and sewer facilities that will not be maintained by Moulton-Niguel Water District shall be plan checked and inspected by the City's Building Department. All fees shall be paid in accordance with the City's fee schedule.
88. Any above ground valve assemblies or back-flow devices shall be placed on private property and an easement dedicated to Moulton-Niguel Water District.
89. Prior to the issuance of a Certificate of Use and Occupancy, any damage, either structural or aesthetic, to any public and/or private streets as a result of utility connections to service the Project shall be repaired by the Applicant to the reasonable satisfaction of the City Engineer. The improvements will not be accepted by the City until the necessary repairs are completed.
90. Any above ground utility cabinets shall be placed on private property and an easement dedicated to the appropriate utility company (if required).
91. No above ground utility structures, cabinets, pipes, or valves shall be constructed within the public right-of-way.

PUBLIC WORKS LANDSCAPING-RELATED CONDITIONS

92. The maintenance of any landscaping between the curb and the right-of-way line of any street abutting the parcel shall be the responsibility of the owner of that parcel, unless a recognized association or district has assumed responsibility for said maintenance.
93. All landscape plans shall reflect all improvements shown on the final approved grading plans and building plans including, but not limited to, improvements such as ramps, walkways, driveways, planter areas, fire access lanes, ingress and egress to buildings, and appurtenances constructed to support the use of any improvements such as gates, handrails, fences, or walls.

TRAFFIC AND PARKING CONDITIONS

94. Prior to the issuance of a precise grading permit, a plan for the placement and installation of traffic signing, pavement delineation, and other traffic devices on the subject property shall be prepared for review and approval by the City Engineer. Parking stalls shall be sized and striped according to City engineering standard plans and the Municipal Code, and stop signs along with

stop legend bar shall be provided at all locations as specified by the City Engineer. The City of Laguna Hills has adopted County of Orange Public Works Standard Plans as its engineering standard plans.

95. Prior to the issuance of a grading permit, the Applicant shall provide a construction management plan that demonstrates how existing tenants in La Paz Village during project construction will maintain access to adequate parking and parking lot circulation in addition to vehicle and pedestrian access. The plan shall ensure each building maintains the following: 1) adequate site access (vehicular and pedestrian); 2) adequate parking; 3) access to public and private transportation facilities; 4) utility services; and 5) access to adjoining properties that are in existence. In approving the plan, the Public Works Director and Community Development Director may consider the historical vehicular and pedestrian connections between the Subject Property and adjacent properties, and the location of existing driveway entrances/exits. The Applicant shall ensure improvements to remain, or any new improvements required in the approved plan, are maintained in a safe condition for the use of vehicles and pedestrians for as long as the improvements are needed to serve affected buildings until the Project is completed. Prior to City approval of the construction management plan, the Applicant shall obtain approval of the Orange County Fire Authority (OCFA) and provide proof of OCFA approval to the Community Development Director. As reasonably determined by the Community Development Director and Public Works Director, the plan shall be implemented and periodically updated prior to commencement of any project phasing.
96. Prior to the issuance of a grading permit, the Applicant shall prepare a Parking Management Plan to update the reciprocal parking approval granted by the County of Orange as part of UP-3891 (which approved reciprocal parking on the following parcels: APN 620-211-18, 25250 La Paz Road; APN 620-211-15, 25252 La Paz Road; and 25254 and 25260 La Paz Road, APN 620-211-17) to demonstrate that, as a result of the proposed development, APN 620-211-18, 25250 La Paz Road, and APN 620-211-15, 25252 La Paz Road meet current parking requirements in Laguna Hills Municipal Code Section 9-44. The Parking Management Plan shall be subject to review and reasonable approval by the Community Development Director and Public Works Director. The Parking Management Plan shall include the following measures to be enforced by the property owner, management company, and/or operator:
 - a. Senior Living Resident and Guest Parking:

- i. Parking within the residential parking structure for the Project shall be limited to residents of the residential building, their guests, and employees serving the residential building.
 - ii. All residents shall be assigned or granted access to parking spaces within the on-site residential parking structure.
 - iii. Guests of the tenants senior living facility shall be directed to park in appropriately assigned and signed parking spaces within the parking structure.
 - iv. All residents of residential building, their guests, and employees serving the residential building shall be directed to utilize the available parking within the residential parking structure and that use of parking spaces within the adjacent commercial parcels that are intended to serve the employees, patrons, and guests of the uses on such adjacent parcels for routine or overnight vehicle parking or storage by residents and guests of the residential building is strictly prohibited. These requirements shall be enforced through lease terms, rules, signage, and/or other mechanisms.
- b. Enforcement: The applicant shall implement and maintain an effective enforcement strategy that outlines measures for monitoring, compliance, and enforcement of the parking requirements which may include but is not limited to:
 - i. Issuance of parking permits;
 - ii. Towing policies for unauthorized vehicles;
 - iii. Periodic parking audits;
 - iv. Signage in compliance with California Vehicle Code Section 22658 notifying the public that public parking is prohibited, and that vehicles parked in violation of the posted parking requirements will be towed at the vehicle owner's expense. Posted signage will make clear that occupants and visitors of residential buildings are prohibited from parking in commercial spaces.
- c. Ongoing Compliance and Reporting: The Parking Management Plan shall include a description of how each strategy will be implemented, and include details describing when and how the strategies will be implemented including days of the week, time of day, locations, equipment and/or personnel to be included, permanent and temporary fixtures, and any other information determined by the Community Development Director to be necessary. Ongoing compliance shall be subject to monitoring, and the City

may require periodic updates or documentation demonstrating continued adherence to this condition.

97. The Parking Management Plan shall include a description of how each strategy will be implemented and include details describing when and how the strategies will be implemented including days of the week, time of day, locations, equipment and/or personnel to be included, permanent and temporary fixtures, and any other information determined by the Community Development Director to be necessary.

CONSTRUCTION ACCESS

98. During construction of the Project, the Applicant shall maintain adequate site vehicular and pedestrian ingress and egress for customers of adjacent commercial uses and utilize temporary directional signage in the public right-of-way as needed to the reasonable satisfaction of the Public Works Director and Community Development Director. Required directional signage shall comply with City standards and specifications, including but not limited to, the CalTrans design manual, the California Manual of Uniform Traffic Control Devices, and/or as recommended by the American Association of State Highway and Transportation Officials (AASHTO). Required private directional signage shall be provided as appropriate at the reasonable discretion of the Community Development Director.
99. During any construction, adequate emergency access for police, fire, and paramedic vehicles, to the standards of, and approval of, the OCFA, shall be maintained on the Subject Property at all times.
100. Prior to the issuance of any demolition, grading, building or other permit within a District, the Applicant shall submit a construction staging plan to the Community Development Director identifying areas to be used for equipment and material storage, placement of construction trailers, portable restrooms, delivery areas for loading and unloading of materials and equipment, construction waste diversion processing, and construction employee parking. The Applicant shall periodically submit an updated construction staging plan, as needed and/or when reasonably requested by the Community Development Director. Appropriate pedestrian and vehicular safety barriers shall be installed in all areas as required by the Community Development Director prior to the issuance of permits. In addition, prior to the issuance of any permits within a District, an on-site pedestrian and vehicle parking circulation plan shall be submitted to the City for review and approval by the Public Services Director and Community Development Director identifying pedestrian and vehicle access, including temporary parking for disabled patrons for businesses that will remain open during construction.

101. During the course of construction, the Applicant shall immediately respond to requests made by a City inspector to reasonably resolve any public safety or access issues identified during the work. Modifications to an approved construction staging plan shall be made when requested by a City inspector within 48 hours, or as soon as possible as determined by the Community Development Director.

AFFORDABLE HOUSING OBLIGATIONS

102. Applicant has offered to, and shall, (1) limit occupancy of all units in the Project to senior citizens and qualified members of their household, as defined in Sections 51.3 and 51.11 of the Civil Code, and (2) reserve at least eighteen (18), or ten percent (10%), of the apartment units in the project for rental and occupancy by very low-income households, as defined in Section 50105 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code, (the “affordable units”) for a minimum period of 55 years from issuance of a Certificate of Use and Occupancy.
103. In order to enable the City to adequately enforce the proposed age restrictions of all units and the continued affordability of all affordable rental units, prior to issuance of a building permit for any structure in the Project, the property owner(s) shall enter into and record an affordable housing regulatory agreement (“regulatory agreement”) with the City, in a form acceptable to the City Manager and the Applicant. The City Manager shall be authorized to enter into and implement the regulatory agreement on behalf of the City. The regulatory agreement shall be prepared by the City at the Applicant’s expense and the Applicant shall reimburse the City for the actual fees and costs incurred by the City in conjunction with negotiation and preparation of the regulatory agreement and review of the initial marketing plan and management plan required as part of the regulatory agreement. Prior to the City commencing preparation of a regulatory agreement, the Applicant shall execute a reimbursement agreement with the City, in a form approved by the City Attorney, and provide a deposit in an amount equal to the estimated reasonable cost to be incurred by the City for negotiation and preparation of the regulatory agreement and review of the initial marketing plan and management plan, as determined by the City Manager in his or her reasonable discretion. Unless otherwise provided by State law or determined by the City Manager, the regulatory agreement shall include provisions addressing or providing for the following:
 - a. Limiting occupancy of all units in the Project to qualified residents and qualified permanent residents, as defined in Sections 51.3 and 51.11 of the Civil Code.

- b. The number of affordable units of each bedroom count and model type shall be generally proportionate to the mix of units in the Project overall. Accordingly, a minimum of seven (7) two-bedroom units, nine (9) one-bedroom units, and two (2) studio units shall be reserved and allocated as very low-income affordable units at all times; provided, however, that the property owner may substitute a larger unit for a smaller unit.
- c. The affordable units shall be “floating” units that are not permanently designated and shall, at all times, be distributed throughout the development and not congregated within a certain area of the Project, unless the Applicant provides substantial evidence to the City that complying with this requirement would make provision of the affordable units infeasible.
- d. The affordable units shall be constructed concurrently with the market rate units.
- e. The affordable units shall be constructed and maintained with the same exterior appearance and interior features, fixtures, and amenities and shall use the same type and quality of materials as provided for market rate units. Finishes and features shall be durable, of good quality, and consistent with contemporary standards for new housing.
- f. Occupants of the affordable units shall have the same access to the common entrances of the building as the occupants of market rate units and shall be provided or have access to the same amenities as the occupants of market rate units.
- g. The owner shall verify and certify, prior to the initial occupancy, and annually thereafter, that each tenant household occupying each affordable unit meets the applicable income and eligibility requirements established for the affordable unit, and to annually prepare a compliance report and certify that the affordable units are in compliance with the regulatory agreement.
- h. The owner shall be required to maintain or cause to be maintained the interior and exterior of the project and the site in a decent, safe and sanitary manner, and in accordance with the standard of maintenance of first class multifamily rental senior apartment complexes within Orange County.
- i. The owner shall be required to maintain, tenant leases, income certifications, and other books, documents, and records related to the sale or rental of the affordable units and operation of the project for a period of not less than five (5) years after creation of each such record; to allow the City to inspect any such books, documents, or records and to conduct an independent audit or inspection of such records at a location that is

reasonably acceptable to the City Manager upon prior written notice; and to permit the City and its authorized agents and representatives to access the property and examine the housing units and to interview owners, occupants, tenants and employees for the purpose of verifying compliance with the regulatory agreement.

- j. The regulatory agreement shall contain uniform provisions regarding property management and management responsibilities and may require the owner to prepare and obtain the City's approval of a marketing and management plan for the project prior to the issuance of a Certificate of Use and Occupancy for any portion of the Project. The marketing and management plan shall address in detail, without limitation, the following matters: (i) how the owner plans to market the affordable units to prospective tenant households; (ii) procedures for the selection of tenants of affordable units, including a description of how the owner plans to certify the eligibility of tenant households; (iii) procedures for annually verifying income and recertifying the eligibility of tenants of affordable units; (iv) the standard form(s) of rental agreement(s) the owner proposes to enter into with tenants of affordable units; (v) procedures for the collection of rent; (vi) procedures for eviction of tenants; (vii) procedures for ensuring that the required number and unit size mix of affordable units is maintained and that affordable units do not become congregated to a certain area of the building or project; (viii) procedures for complying with the owner's monitoring and recordkeeping obligations; (ix) the owner's property management duties; (x) the owner's plan to manage and maintain the project and the affordable units; (xi) the rules and regulations of the property and manner of enforcement; and (xii) and a program addressing security and crime prevention at the project.
- k. The regulatory agreement shall contain a provision requiring the owner to pay the City an annual administration fee to reimburse the City for the estimated reasonable costs incurred by the City in monitoring the owner's compliance with, and otherwise administering, the regulatory agreement, including, but not limited to, the City's review of annual compliance reports and conduct of inspections and/or audits.
- l. The regulatory agreement shall require the owner, at its expense, to defend (with counsel acceptable to City and subject to approval by owner), indemnify, and hold harmless City, and its officers, agents, employees and representatives from any and all losses, liabilities, claims, lawsuits, causes of action, judgments, settlements, court costs, attorneys' fees, expert witness fees, and other legal expenses, costs of evidence of title, costs of

evidence of value, and other damages of whatsoever nature arising out of or in connection with owner's failure to perform its obligations under the agreement, the owner's ownership or operation of the site, or the development of the project, except for such liability arising from the gross negligence or willful misconduct of City.

- m. The regulatory agreement shall remain a senior, non-subordinate covenant and as an encumbrance running with the land for the full term thereof. In no event shall the regulatory agreement be made junior or subordinate to any deed of trust or other documents providing financing for the construction or operation of the project, or any other lien or encumbrance whatsoever for the entire term of the required covenants.

PROTECTION OF TRIBAL CULTURAL RESOURCES

- 104. The statutory infill housing exemption established by AB 130 (Public Resources Code Section 21080.66) became effective on June 30, 2025. Prior to that date, the City had engaged in tribal consultation regarding the project pursuant to AB 52. Tribal cultural resources mitigation measures were identified and tribal consultation was closed. While the City and Applicant agree that further tribal consultation under Public Resources Code Section 21080.66 is not required because tribal consultation was conducted pursuant to AB 52, the City nonetheless, in an abundance of caution, notified the Tribes of the Applicant's invocation of AB130 and invited further consultation pursuant to that process. The Tribes either did not respond or declined further consultation. The Applicant shall thus comply with the following enforceable agreement reached between the City and the tribes that participated in the tribal consultation for this Project pursuant to AB 52 from January 23, 2025 to May 12, 2025, as follows:
 - a. The Applicant shall retain Native American Monitors from the following Native American tribes that consulted during the AB 52 process for the Project: Gabrieleno Band of Mission Indians – Kizh Nation; Gabrieleno Tongva Indians of California; and Juaneno Band of Mission Indians, Acjachemen Nation. The monitors shall be retained prior to the commencement of any ground-disturbing activity for the subject Project at all project locations (i.e., both on-site and any off-site locations that are included in the Project description/definition and/or required in connection with the Project, such as public improvement work). "Ground-disturbing activity" shall include, but is not limited to, demolition, pavement removal, potholing, auguring, grubbing, tree removal, boring, grading, excavation, drilling, and trenching.

- b. A copy of the executed monitoring agreements shall be submitted to the Community Development Director prior to the commencement of any ground-disturbing activity or the issuance of any permit necessary to commence ground-disturbing activity.
- c. The Applicant shall require the monitors to complete daily monitoring logs that will provide descriptions of the relevant ground-disturbing activities, the type of construction activities performed, locations of ground-disturbing activities, soil types, cultural-related materials, and any other facts, conditions, materials, or discoveries of significance to the tribes. Monitoring logs will identify and describe any discovered tribal cultural resources (TCRs), including, but not limited to, Native American cultural and historical artifacts, remains, and places of significance, as well as any discovered Native American (ancestral) human remains and burial goods. The Applicant shall require that copies of monitoring logs will be provided to the City upon written request to the tribes.
- d. On-site tribal monitoring shall conclude upon either of the following: (1) written confirmation to the Tribes from a designated point of contact for the Applicant that all ground-disturbing activities and phases that may involve ground-disturbing activities on the Project site or in connection with the Project are complete or (2) a determination and written notification by the tribes or designee that no future, planned construction activity and/or development/construction phase at the Project site possesses the potential to impact TCRs.
- e. Upon discovery of any TCRs, all construction activities in the immediate vicinity of the discovery shall cease (i.e., not less than the surrounding 50 feet) and shall not resume until the discovered TCR has been fully assessed by the Native American Monitors. The tribes will recover and retain all discovered TCRs in the form and/or manner the tribes deem appropriate, in the tribes' sole discretion, for any purpose the tribes deem appropriate, and for any purposes, including for educational, cultural, and/or historic purposes.
- f. Native American human remains are defined in Public Resources Code, Section 5097.98(d)(1) as an inhumation or cremation, and in any state of decomposition or skeletal completeness. Funerary objects, called associated grave goods in Public Resources Code Section 5097.98, are also to be treated according to this statute. If Native American human remains and/or grave goods are discovered or recognized on the project site, then PRC Section 5097.98 and California Health and Safety Code Section 7050.5 shall be followed. Human remains and grave/burial goods

shall be treated alike per PRC Sections 5097.98(d)(1) and (2). Preservation in place (i.e., avoidance) is the preferred manner of treatment for discovered human remains and/or burial goods. Any discovery of human remains/burial goods shall be kept confidential to prevent further disturbance.

105. The statutory infill housing exemption in AB 130 (Public Resources Code Section 21080.66) applies to the Project. The Applicant shall thus comply with the following applicable conditions required by Public Resources Code Section 21080.66:
 - a. Each tribe shall designate its own monitor.
 - b. The Applicant shall require that any tribal monitor designated by the tribe comply with Applicant's site access and workplace safety requirements.
 - c. The Applicant shall compensate the tribal monitor at a reasonable rate, as determined by the California Native American tribe, that aligns with customary compensation for cultural resources monitoring, taking into account such factors as the scope and duration of the project.
 - d. The Applicant shall avoid all tribal cultural resources where feasible in accordance with Public Resources Code Section 21084.3(a). In furtherance of this requirement, where feasible, the Applicant shall provide deference to tribal preferences regarding access to spiritual, ceremonial, and burial sites, and incorporate tribal traditional knowledge in the protection and sustainable use tribal cultural resources and landscapes.
 - e. All treatment and documentation of tribal cultural resources shall be conducted in a culturally appropriate manner, consistent with Public Resources Code § 21083.9.
 - f. The Applicant shall apply tribal ecological knowledge into habitat restoration efforts undertaken by the project as applicable to the specific environmental context and conditions of the project.
 - g. The Applicant shall comply with Section 7050.5 of the Health and Safety Code and Public Resources Code Section 5097.98, including immediate work stoppage upon discovery of human remains or burial grounds, and treatment in accordance with applicable law and in consultation with the affected California Native American tribe.
 - h. The Applicant shall complete a California Historical Resources Information System archeological records search and a tribal cultural records search shall be completed for the project site.

- i. The Applicant shall submit a Sacred Lands Inventory request to the Native American Heritage Commission.

HAZARDOUS SUBSTANCES

106. The Applicant and Project shall be subject to the following required Conditions pursuant to subdivision (c) of Section 21080.66 of the Public Resources Code:
 - a. The Applicant shall complete a phase I environmental assessment, as defined in Section 78090 of the Health and Safety Code.
 - b. If a recognized environmental condition is found, the Applicant shall complete a preliminary endangerment assessment, as defined in Health & Safety Code Section 78095, prepared by a qualified environmental assessor to determine the existing of any release of a hazardous substance on the site and to determine if the potential for exposure of future occupants to significant health hazards from any nearby property or activity.
 - c. If a release of a hazardous substance is found to exist on the Project site, no Certificate of Use and Occupancy shall be issued until the Applicant provides satisfactory evidence to the City that the release has been removed or any effects of the release have been mitigated to levels required by current federal and state statutory and regulatory standards.
 - d. If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, no Certificate of Use and Occupancy shall be issued until the Applicant provides satisfactory evidence to the City that the effects of the potential exposure have been mitigated to levels required by current federal and state statutory and regulatory standards.
107. Applicant has provided the City with a Phase I Environmental Site Assessment (ESA) prepared by BBG Assessments, LLC in 2021 (Exhibit D) and a Phase II ESA prepared by Wies Environmental in 2022 (Exhibit E). According to the Phase I ESA completed by BBG, different dry cleaners occupied 25260 La Paz Road, Suite M, on the project site from the 1970s to 2017 (BBG 2021). The Phase II ESA conducted by Weis Environmental in 2022 confirmed that tetrachloroethene (PCE) was released from the former cleaner's operation at the Project site, resulting in contamination in soil vapor beneath the former cleaner's space (Weis 2022). VOC contamination was not identified in soil samples, indicating that contamination at the site is likely limited to soil vapor; however, PCE could be present in soils beneath the existing two-story retail building. Soil vapor impacts were generally limited to the southwest corner of the retail strip, beneath the former cleaner's operations. The release is not considered to be a threat to underlying groundwater resources (Weis 2022). However, if not properly managed, contaminated soil and soil vapor could be

released during construction, and, during operation, vapor intrusion into new residential buildings could occur. Therefore, the Project shall be subject to the following Conditions:

- a. Prior to commencement of any demolition or construction activities, Applicant shall prepare and obtain City approval of a Hazardous Materials Contingency Plan (HMCP) that addresses potential impacts in soil and soil vapor from chemical releases on or near the project site. The HMCP shall include training procedures for identification of contamination, and shall describe procedures for assessment, characterization, management, and disposal of hazardous constituents, materials, and wastes in accordance with all applicable state and local regulations. Contaminated soils and/or groundwater shall be managed and disposed of in accordance with local and state regulations. The HMCP shall include health and safety measures, which may include but are not limited to periodic work breathing zone monitoring and monitoring for volatile organic compounds using a handheld organic vapor analyzer in the event impacted soils and/or soil vapor are encountered during excavation activities. Air monitoring will also comply with South Coast Air Quality Management District Rules. The Applicant and/or its designee shall implement the HMCP during construction activities for the Project.
- b. Applicant shall implement the recommendations set forth in the Phase II ESA to mitigate the PCE condition at the Site, by completing the following:
 - i. Upon demolition of the Site building in the area of the former cleaners, Applicant shall retain a qualified professional to conduct relatively shallow supplemental soil sampling and analysis in the rear area of the former cleaners tenant space. Results of this sampling shall be provided to the City before any grading or excavation activity is commenced.
 - ii. If hot spots of PCE are identified in soil, Applicant shall excavate any shallow impacted soils and remove such soil to a landfill facility for disposal in compliance with all applicable federal, state and local statutory and regulatory requirements.
 - iii. Upon demolition of the Site building and other paving in the area of the former cleaners, Applicant shall retain a qualified professional environmental assessor to conduct additional soil gas sampling and analysis to evaluate the potential off-gassing of the vapor cloud condition at the Site. The results of said sampling and analysis shall be provided to the City prior to the issuance of a grading permit.

- iv. The Applicant shall implement all recommendations of the environmental assessor and implement all mitigation deemed warranted by the assessor, DTSC, and/or the Orange County Department of Environmental Health prior to issuance of a grading permit.
- 108. The Applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM) and Lead-Based Paints (LBP), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and South Coast Air Quality Management District, Rule 1403 as may be amended. Demolition or renovation plans and contract specifications shall incorporate appropriate abatement procedures for the removal of ACM and LBP. Evidence of compliance shall be submitted to the City upon request.

PASSED, APPROVED, AND ADOPTED this 23rd day of September, 2025.

JOSHUA SWEENEY, CHAIR

ATTEST:

JENNIFER LEE, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LAGUNA HILLS)

I, Jennifer Lee, City Clerk of the City of Laguna Hills, California, DO
HEREBY CERTIFY that the foregoing is a true and correct copy of Resolution
No. _____ adopted by the Planning Agency of the City of Laguna Hills,
California, at a Regular Meeting thereof held on the 23rd day of September, 2025, by the
following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JENNIFER LEE, CITY CLERK

September 23, 2025

Item No. 5.5.2

LH CITY CLERK RECEIVED
SEP 17 2025 PM 2:36

September 17th, 2025

To: City of Laguna Hills

Planning Department

24035 El Toro Road

Laguna Hills, CA 92653

Re: La Paz Village Shopping Center hearing September 23rd 2025, 6:00 p.m.

To whom it may concern:

As a resident of the area across La Paz Road from the above-proposed development, I feel strongly that its important that an Environmental impact study needs to be done for this project and to exempt it would be a huge mistake.

First, there is not enough parking for 180 units. Seniors 55+ do not sit and watch TV all day. Many are working and/or involved in independent social activities and appointments, thus needing more than one car depending on how many adults live together. Some seniors need outside full or part-time caregivers and have visitors. Then there are "Grandparents with a spare room" which end up with children or grandchildren "staying until they get back on their feet". This is very difficult to monitor and enforce. They also usually have cars. There will be a significant impact on the streets and the residents who want to park their own cars in front of their own houses, whether it's due to just the original tenants or the additional drivers.

Secondly, Grandparents also help their children, who are both usually working full-time, with childcare by routinely delivering and picking up the grandchildren to and after school, which is made more convenient by the parents using the Grandparents' address to enroll in a school closer to the Grandparents. This has been going on since my children were small and is even more common now. So, yes the local schools will be impacted.

I have known people who have had these exact scenarios happen in their neighborhood for many years and it can only be avoided by getting the Environmental Impact studies done properly and the results respected and followed.

Sincerely,


Jeannette M Takacs

949-382-5723

From: No Reply <noreply@civicplus.com>
Sent: Saturday, September 20, 2025 1:14 PM
To: Public Comments
Subject: Public Comment Submission

Submitted by: Jen Smith
Email Address: jnsmith@pm.me

Commented on event: <https://lagunahillsca.portal.civicclerk.com/event/751/overview>

If you are having trouble viewing the URL above, cut and paste the string into your browser window.

User comment: The city should not build any high density housing in existing residential areas with single family homes. It will decrease property value and diminish privacy of yards nearby. Moreover, the particular location that is being proposed already has high traffic and is near a school - adding further potential for fatal traffic mishaps. Since senior housing is being proposed, the frequency of loud ambulances will also impact neighborhood tranquility. It would be more appropriate to develop mixed use residential and commercial space, with no more than 20 single family homes. Nothing should exceed 2 stories. There are open land areas on Cabot that would be more appropriate for large buildings. I will vote against any person who approves this measure and will encourage all of my neighbors to do the same.

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September 22, 2025

City of Laguna Hills
Community Development
24035 El Toro Road
Laguna Hills, CA 92653

Dear Members of the City of Laguna Hills:

Orange County REALTORS® is proud to have its Orange County home in Laguna Hills. We have some items we believe need to be addressed when consider the proposed development in what is not the Laguna Hills Village Shopping Center.

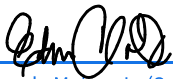
Since the subdividing of the property upon which both the shopping center and our corporate offices are located, we have possessed a recorded easement across the shopping center for ingress and egress to our parking lot and property. The developer proposes relocating our easement as part of its development. Though we can manage a relocated access, that same access will also become the access for fire equipment and other first responders. That means it must be wide enough to clear a large fire apparatus and a car on the same strip of easement. In an emergency first responders need to be able to navigate any traffic that may be evacuating to save lives and provide working space for necessary equipment. The current easement runs across the middle of the shopping center, and we understand the developer wants to move it to the south side. We have no objection provided it is at least 24 feet of paved clearance throughout the easement. On the west side of the proposed development, we understand there is a proposal for an easement that will allow access for first responders. We have no objection to that proposal provided it is also 24 feet of paved clearance and accessible to La Paz Road for both emergency equipment and private vehicles and wholly contained on the developer's property.

The substantial development raises other matters which we are sure you are considering, including:

1. Overall Circulation Issues: There will be increased vehicle traffic as many seniors today have and maintain two or more vehicles. Those vehicles will need to have a safe entrance and exit, which may include being able to make a right turn onto La Paz instead of exiting via left turn onto McIntyre. As you know from the experience of other developments, it is possible the number of vehicles may exceed what is now using the shopping center. We believe our best exit for most of our users will be a right turn onto La Paz Road and reducing the impact on McIntyre.

2. Utilities: Given the size and use of the proposed development, there will be increased use of utility services, including electricity, gas, water and sewer. Overloading the current system may have an adverse consequence for existing homes and businesses.
3. Public Safety: Though an initial evaluation of senior living tends to have people conclude there will be less likelihood of crime, seniors may require more emergency services that will affect the fire department and other rescue resources. This is one of the reasons there needs to be proper access to the development for first responders, including equipment to reach upper stories of the proposed project.
4. Parking: The development of senior housing in Orange County requires different parking standards than in urban areas with extensive public transportation. Seniors moving into the development and their guests will require adequate parking. The lot of Orange County REALTORS® cannot suffice as additional parking spaces for the development because there are numerous meetings and other business activities at Orange County REALTORS® requiring the entire parking area.
5. Trash & Recycling Services: The current project proposal places a large trash enclosure—designed to accommodate eight bins—just a few feet from our main entrance. This presents a significant concern for our business operations, as it introduces potential nuisances including increased noise, unpleasant odors, and heightened foot and vehicle traffic in a highly sensitive area. The proximity of this enclosure directly undermines the customer experience, particularly for our outdoor patio, which is a key feature of our establishment. We strongly urge that the project conditional approval includes the trash enclosure be relocated to a non-adjacent area, further from our property line, to mitigate these negative impacts and ensure compatibility with neighboring uses.

Thank you for taking our needs and comments into consideration.



Eduardo Molina Jr. (Sep 22, 2025 13:56:41 PDT)

Ed Molina, President

Letter to the City regarding future easements-092225

Final Audit Report

2025-09-22

Created:	2025-09-22
By:	Liz Barndt (liz@ocar.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAAoiX-pVRgSfg95IkVL59LDy4eXLuv9Zpy

"Letter to the City regarding future easements-092225" History

-  Document created by Liz Barndt (liz@ocar.org)
2025-09-22 - 8:27:37 PM GMT
-  Document emailed to Eduardo Molina Jr. (edmolinarealestate1@gmail.com) for signature
2025-09-22 - 8:27:41 PM GMT
-  Email viewed by Eduardo Molina Jr. (edmolinarealestate1@gmail.com)
2025-09-22 - 8:55:05 PM GMT
-  Document e-signed by Eduardo Molina Jr. (edmolinarealestate1@gmail.com)
Signature Date: 2025-09-22 - 8:56:41 PM GMT - Time Source: server
-  Agreement completed.
2025-09-22 - 8:56:41 PM GMT

Subject: FW: Agenda Report for SDP/PUP No. USE-0147-2023

From: Shane Will <shanewill2010@gmail.com>

Sent: Monday, September 22, 2025 7:33 PM

To: Plan Dept <planning@lagunahillsCA.gov>

Subject: Agenda Report for SDP/PUP No. USE-0147-2023

Hello,

We are property owners at 25301 Mackenzie Street and will be attending the meeting on 9/23/2025 at 6PM regarding the SDP/PUP noted in the subject line.

The letter we received indicated that we need to request the Agenda Report for this item in advance of the meeting at City Hall. Please be sure that there is a copy of this report for us on the evening of 9/23/2025.

--

Thanks

Shane Will

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Subject: FW: jay Wuu Senior planner Site development permit sdp/pup hearing 9/23/25 6pm
Attention: city clerk

From: kahammond1@aol.com <kahammond1@aol.com>

Sent: Wednesday, September 17, 2025 5:55 PM

To: Plan Dept <planning@lagunahillsCA.gov>

Subject: jay Wuu Senior planner Site development permit sdp/pup hearing 9/23/25 6pm Attention: city clerk

I have visited the La Paz Village shopping center often. I have always enjoyed going to one of the food places while waiting for my sister to finish work. A 5 story apartment building is too big for the area and town homes would be better.

Thank you for consideration on this matter

Kathleen Hammond

530 945 8189

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From: No Reply <noreply@civicplus.com>
Sent: Tuesday, September 23, 2025 11:35 AM
To: Public Comments
Subject: Public Comment Submission

Submitted by: Perry Hodges
Email Address: lagunahillshere@yahoo.com

Commented on event: <https://lagunahillsca.portal.civicclerk.com/event/751/overview>

If you are having trouble viewing the URL above, cut and paste the string into your browser window.

User comment: RE: La Paz Village Shopping Center hearing September 23, 2025, 6:00 PM To whom it may concern: As a resident/home owner directly across Mackenzie Street from the above-proposed development, I feel strongly that it is important if not imperative that an Environmental impact study needs to be done for this project and to exempt it would be a huge mistake. First, there is not enough parking for 180 units in the plans. 55+ seniors are typically active in the community socially and if there are multiple adults living in each unit with one or multiple cars, that alone would cause massive congestion. I feel the overflow of visitor/caretakers would overtake the surrounding adjacent streets, minimizing or eliminating public parking for current residents today, and those streets are already heavily utilized for services at the Christ Community Church. Today, we only deal with this issue on Sunday, but if approved, we will be forced to deal with this daily. Secondly, family members, caretakers, medical personnel are sure to visit and assist residents as needed, which must be factored into decisions, therefore reiterating that an Environmental impact study needs to be done for this project. Additionally, as a resident/home owner across Mackenzie Street from the above-proposed development I disagree that the city should approve/build any high density housing in existing residential areas with mostly single family homes in the surrounding area today. Public safety is going to be an issue, it not from the likelihood of additional crime, seniors may require more emergency services that will affect fire department and other rescue resources. I envision drastic situations where they need to access residents and either can not or have all traffic access blocked. An Environmental impact study would address these issues. Currently, I look out my 2nd story balcony at the beautiful mountains. If approved I would be looking into multiple resident homes and a wall of massive buildings. Currently I can have my doors/windows open during the day and all night if desired without any noise issues. I will not be forced to install curtains in my home for privacy from these structures, or worse yet, to plant trees across my front yard or on sidewalks, in hopes to block the noise and visually block their view. Since senior housing is being offered, the frequency of loud ambulances will also impact neighborhood tranquility, again, reiterating that an Environmental impact study needs to be done for this project. Property values will be immediately impacted, some more than others, such as myself, directly across from Mackenzie Street from the above-proposed development. I feel that no new structures should exceed two-stories. I will vote against any person who approves this measure and will encourage all of my neighbors to do the same.

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Subject:

FW: Public Comment: Item 5.5.2 Planning Agency Meeting - Sept 23, 2025

From: Rona Henry <rona.s.henry@gmail.com>

Sent: Tuesday, September 23, 2025 12:19 PM

To: Jennifer Lowe <jlowe@lagunahillsCA.gov>; Jay Wu <jwu@lagunahillsCA.gov>; Joshua Sweeney <jsweeney@lagunahillsCA.gov>; Don Caskey <dcaskey@lagunahillsCA.gov>; Dave Wheeler <dwheeler@lagunahillsCA.gov>; Erica Pezold <epetzold@lagunahillsCA.gov>; Jared Mathis <jmathis@lagunahillsCA.gov>
Cc: Rev Jason Cook <rev@tapestryuu.org>; Ann Owens <annowens@cox.net>; Sheryl Sterry <stranggefruit@gmail.com>; Denise Legters <denise.s.legters@gmail.com>; Cesar Covarrubias <cesarc@kennedycommission.org>; Cithlalli Ramirez <cithlallir@kennedycommission.org>; Alejandra Perez Matus <alejandrap@kennedycommission.org>; Cynthia Marquez <cynthiam@kennedycommission.org>; Rudy Barbosa <rudibeb@uci.edu>; Ryan Lenney <ryanalenney@gmail.com>

Subject: Public Comment: Item 5.5.2 Planning Agency Meeting - Sept 23, 2025

I am writing on behalf of Welcoming Neighbors Home, a ministry of Tapestry Unitarian Universalist Congregation. We have members who reside in Laguna Hills.

We support the proposed housing project on La Paz - Planning Agency Agenda Item 5.5.2. We note that 10% of the units in this senior living complex will be for people with very-low incomes. This level of affordability is much needed and it will help the City meet its 6th Cycle RHNA goal of 921 lower income units.

While we acknowledge the need for senior affordable housing, **we urge the City to be mindful in future housing projects of the need for multi-family work-force housing.** We especially need workforce housing for workers with very-low and extremely low incomes - which includes health care, retail and even some City government workers.

Thank you for considering our input and your service to the City.

Rona Henry

Chair, [Welcoming Neighbors Home Initiative](#)

Tapestry, a Unitarian Universalist Congregation

Subject: FW: Item 5.5.2

-----Original Message-----

From: Elizabeth Shapiro <elizabeth_shapiro@hotmail.com>

Sent: Tuesday, September 23, 2025 12:35 PM

To: Public Comments <publiccomments@lagunahillsCA.gov>

Subject: Item 5.5.2

This is regarding item 5.5.2 Has any traffic assessment or environmental impact been completed and analyzed on this potential development? Why is this even being considered? Co It is unconscionable to erect a 180 unit residential building plus parking on a road that cannot accommodate it. It is a two-lane road in each direction feeding to the freeway entrances . On any day that road backs up to the freeway. Any slightest construction renders a large backup. This is absolutely not a good spot for this housing. Part of the reason I chose to live in this development is due to the access of commercial businesses which the landlord has driven out. Please do not approve this development.

Thank you,
Elizabeth Shapiro
Evergreen road

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https://us1.proofpointessentials.com/app/report_spam.php?mod_id=11&mod_option=logitem&report=1&type=easyspam&k=k1&payload=53616c7465645f5f553e0b51933ae6d65dfbe69acd3be9e03d3513c3483e30e7146d7c63e241f2c6e324b36ee7b547a02452cfda071442dd401e6a2f7ea0a3d48c9ed271ba0351ad3670d260431d081906d93d7f8a30a255766cf375b90d76a4ccd310c05a436c2071e4b5737a16bad5c218820621e7a4bbbc861745d55d289f64321f0803a799a9864a81b622581536ebef291635c72df10f530e29725538b8

From: No Reply <noreply@civicplus.com>
Sent: Tuesday, September 23, 2025 12:32 PM
To: Public Comments
Subject: Public Comment Submission

Submitted by: Elizabeth Shapiro
Email Address: elizabeth_shapiro@hotmail.com

Commented on event: <https://lagunahillsca.portal.civicclerk.com/event/751/overview>
If you are having trouble viewing the URL above, cut and paste the string into your browser window.

User comment: This is regarding item 5.5.2 Has any traffic assessment or environmental impact been completed and analyzed on this potential development? Why is this even being considered? Co It is unconscionable to erect a 180 unit residential building plus parking on a road that cannot accommodate it. It is a two-lane road in each direction feeding to the freeway entrances . On any day that road backs up to the freeway. Any slightest construction renders a large backup. This is absolutely not a good spot for this housing. Part of the reason I chose to live in this development is due to the access of commercial businesses which the landlord has driven out. Please do not approve this development.

Subject: FW: La Paz Village Project

From: Blake Koop <bjkoop@gmail.com>

Sent: Tuesday, September 23, 2025 11:46 AM

To: City Council <ccouncil@lagunahillsca.gov>

Subject: La Paz Village Project

LH City Council,

I am writing as a resident who is deeply concerned about the proposed demolition and redevelopment at La Paz Village (APN 620-211-17). While I recognize the City's obligation under state housing law, I urge you to carefully weigh the risks to our community if this project proceeds without strong safeguards.

1. Poor Economics of the Current Proposal

The project proposes demolishing nearly all of the retail on the parcel—over 35,000 square feet of income-producing space—and replacing it with an independent senior living facility. The economics of this concept are extremely challenging:

- Independent living apartments generate lower revenue per unit compared to assisted or memory care models.
- The plan includes a 10% very low-income set-aside, which further reduces average rents.
- Construction costs are unusually high, with a six-story building and a structured parking garage.

Taken together, the residual land value of such a project is likely negative under current market conditions. It is hard to see how this proposal can secure financing without major subsidies. I also recognize that it is very likely that the price that the owner paid for this parcel in 2022 (\$23 million) is way beyond what the retail revenue could support. This puts the owner in a tough spot. But this project is not the answer. The economics do not pencil out. A very likely outcome is a half finished project. Demolishing our retail space is not worth that.

2. Lessons from Bolsa Chica (Huntington Beach)

The City of Huntington Beach recently went through years of hearings on the Bolsa Chica senior project. That project is almost identical to this La Paz proposal. That plan started at more than 200 units and ~298,000 square feet, but after significant pushback and feasibility issues it was scaled down repeatedly—eventually reduced to about 159 units, lower height, and a different care mix in order to improve the economics. With those changes, the process was drawn out and disruptive.

The parallel to La Paz is clear: a developer can demolish first and then find that the original vision is not financeable. Huntington Beach managed this through years of CEQA review and project pivots, but Laguna Hills is being asked to fast-track an equally risky design under Builder's Remedy.

3. If the project must go through...

I urge the Council to insist on strong conditions before demolition occurs:

- **No demolition prior to proof of financing and building permits.** The City should require verified construction financing and issued building permits before allowing any demolition of existing retail structures.
- **Site restoration performance bond.** The applicant should post a bond sufficient to cover grading, fencing, lighting, and basic restoration in case the project stalls. This ensures the community is not left with a vacant, unsafe site if construction cannot be completed.
- **Construction phasing and tenant access.** The Council should condition approval on maintaining safe access for the remaining tenants and ensuring traffic, fire lanes, and utilities remain functional throughout construction.

These are standard protections in many jurisdictions, and they would prevent Laguna Hills from being left with a gutted retail center and no viable housing.

Many thanks to all of you for your service to our community and for considering these safeguards. I urge you to place the public interest first and ensure that, if this project is approved, the City is fully protected against the economic risks it poses.

Sincerely,

Blake Koop

25581 Fir Ln

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Subject: FW: Item 5.5.2 Planning agency agenda

From: Cesilia Vega-Gonzalez <cesivegag@gmail.com>

Sent: Tuesday, September 23, 2025 1:36 PM

To: Jennifer Lowe <jlowe@lagunahillsCA.gov>; Jay Wu <jwu@lagunahillsCA.gov>; Joshua Sweeney <jsweeney@lagunahillsCA.gov>; Don Caskey <dcaskey@lagunahillsCA.gov>; Dave Wheeler <dwheeler@lagunahillsCA.gov>; Erica Pezold <epetzold@lagunahillsCA.gov>; Jared Mathis <jmathis@lagunahillsCA.gov>

Subject: Item 5.5.2 Planning agency agenda

I am writing as a resident of Laguna Hills for over 20 years. I am in support of the proposed project on La Paz-Planning Agency Agenda item 5.5.2. I applaud that 10% of the units of the senior living complex will be for people with very low incomes. Additionally, I urge the city to recognize the need for affordable housing for young families in our community.

With Gratitude,

Cesilia Vega

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Subject: FW: Support Item 5.5.2 La Paz from People for Housing OC
Attachments: SUPPORT Laguna Hills Agenda Item 5.5.2 La Paz 9-23-2025.pdf

From: Elizabeth Hansburg P4H <elizabeth@peopleforhousing.org>

Sent: Tuesday, September 23, 2025 2:45 PM

To: Jennifer Lowe <jlowe@lagunahillsCA.gov>; Jay Wu <jwuu@lagunahillsCA.gov>; Joshua Sweeney <jsweeney@lagunahillsCA.gov>; Don Caskey <dcaskey@lagunahillsCA.gov>; Dave Wheeler <dwheeler@lagunahillsCA.gov>; Erica Pezold <epezold@lagunahillsCA.gov>; Jared Mathis <jmathis@lagunahillsCA.gov>

Subject: Support Item 5.5.2 La Paz from People for Housing OC

Dear City Staff,

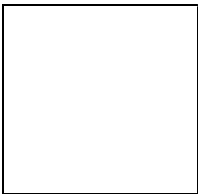
Hello Ms. Lowe and City of Laguna Hills Staff,

Please find attached our letter of support for the La Paz senior apartments.
Thank you for your time and consideration.

Kind regards,

--

Elizabeth Hansburg
Co-Founder & Director
714-872-1418





Fighting for a future of abundant housing in Orange County.
peopleforhousing.org

September 23rd, 2025

Mayor Joshua Sweeney
City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Re: SUPPORT for La Paz Senior Housing Project, Agenda 5.5.2

Dear Mayor Sweeney and Members of the City Council,

On behalf of People for Housing OC, we would like to express our strong support for the proposed housing project on La Paz - Planning Agency Agenda Item 5.5.2.

People for Housing OC is the Yes In My Backyard (YIMBY) organization for Orange County, California. We represent Orange County residents who support more affordable and attainable housing opportunities and more diverse housing options in our communities.

The proposed housing project, 'La Paz,' would establish a 180-unit residential senior apartment project with eighteen units reserved for very low-income households. This project will provide more homes for seniors in search of market-rate homes, enabling them to downsize and be free of the property maintenance concerns that accompany single-family homeownership. These existing homes will be made available to the next generation of residents, who want to raise their families in Laguna Hills.

The 10 very-low-income units will provide senior residents of Laguna Hills with stable, below-market-rate affordable housing during a time when Orange County's senior population

represents the largest portion of residents experiencing homelessness and housing insecurity. As the need for affordable senior housing continues to rise, particularly among those on fixed incomes, this development represents a critical step in meeting this need. It also reinforces Laguna Hill's commitment to addressing housing affordability with compassionate, innovative solutions.

We strongly encourage your support for this project, which will provide much-needed stability and dignity for some of Laguna Hill's most vulnerable residents.

Sincerely,

Elizabeth Hansburg

Cofounder & Director



Fighting for a future of abundant housing in Orange County.
peopleforhousing.org

Subject: FW: Planned Development at La Paz Village

From: Shannon Gerlach <gerlachshannon@gmail.com>

Sent: Tuesday, September 23, 2025 3:03 PM

To: don@doncaskey.com

Cc: City Council <ccouncil@lagunahillsca.gov>

Subject: Planned Development at La Paz Village

Hello Mayor Sweeney, Councilmember Caskey, Councilmember Wheeler, Councilmember Pezold, and Councilmember Mathis,

Thank you all for your service to Laguna Hills. I am honored to call Laguna Hills my home for the past 14 years. Today, I am writing as a concerned resident of Laguna Hills regarding the proposed redevelopment of La Paz Village into a high-density housing project consisting of 180 units, including approximately 10% designated as low-income housing. While I understand that state legislation is placing pressure on cities like ours to approve such projects or risk litigation, I respectfully urge the Council to carefully weigh the long-term impacts this development will have on our community.

First, the location presents significant traffic concerns. With ongoing and proposed changes to the roads along Paseo de Valencia and Cabot, the addition of a six-story residential complex with underground parking will inevitably push more traffic congestion onto La Paz Road. This corridor is already a critical thoroughfare for residents, businesses, and emergency vehicles, and further strain could compromise both quality of life and safety.

Second, this project risks a long-term financial loss for Laguna Hills. Redeveloping La Paz Village for housing, rather than encouraging businesses to occupy this site, eliminates opportunities for sales tax revenue—one of the primary ways our city funds essential services. Given that Laguna Hills already faces challenges in retaining and attracting businesses, converting a commercial property into primarily residential use further weakens our local economic base.

Finally, while affordable housing is an important regional issue, the proposed project in its current form does not strike a sustainable balance between housing needs, traffic management, and fiscal responsibility. The City should advocate for more thoughtful planning, including consideration of mixed-use development that incorporates both housing and revenue-generating businesses.

I respectfully request that the Council explore alternatives that meet state housing mandates while also protecting the long-term interests of Laguna Hills residents and preserving the city's financial stability.

Thank you for your time and consideration of these concerns.

Respectfully,

Shannon L Gerlach

25571 Fir Lane

Laguna Hills CA 92653

714-606-4568

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

Subject: FW: public comment re item 5.5.2 for tonight's City Council and Planning Agency meeting
Attachments: CalHDF v LCF.pdf

From: James Lloyd <james@calhdf.org>
Sent: Tuesday, September 23, 2025 4:19 PM
To: City Council <ccouncil@lagunahillsca.gov>; Joshua Sweeney <jsweeney@lagunahillsCA.gov>; Don Caskey <dcaskey@lagunahillsCA.gov>; Jared Mathis <jmathis@lagunahillsCA.gov>; Erica Pezold <epetzold@lagunahillsCA.gov>; Dave Wheeler <dwheeler@lagunahillsCA.gov>
Cc: CD USER <cd@lagunahillsCA.gov>; Joe Ames <james@lagunahillsCA.gov>; Jennifer Lee <jlee@lagunahillsCA.gov>; Greg Simonian (woodruff.law) <gsimonian@woodruff.law>
Subject: Re: public comment re item 5.5.2 for tonight's City Council and Planning Agency meeting

Please see attached the court case referenced in our public comment for inclusion in the record for tonight's Council meeting.

James M. Lloyd
Director of Planning and Investigations
California Housing Defense Fund
james@calhdf.org
CalHDF is grant & donation funded
Donate today - <https://calhdf.org/donate/>

On Tue, Sep 23, 2025 at 4:17 PM James Lloyd <james@calhdf.org> wrote:

Dear Laguna Hills City Council and Planning Agency,

The California Housing Defense Fund ("CalHDF") submits the attached public comment re item 5.5.2 for tonight's City Council and Planning Agency meeting, the proposed 180-unit senior housing development project at 25250 – 25260, 25732, 25758 La Paz Road, which includes 18 very low-income units.

Sincerely,

James M. Lloyd
Director of Planning and Investigations
California Housing Defense Fund
james@calhdf.org
CalHDF is grant & donation funded
Donate today - <https://calhdf.org/donate/>



Sep 23, 2025

City of Laguna Hills
24035 El Toro Road
Laguna Hills, CA 92653

Re: Housing Development Project at 25250 – 25260, 25732, 25758 La Paz Road

By email: ccouncil@lagunahillsCA.gov; jsweeney@lagunahillsca.gov;
dcaskey@lagunahillsca.gov; jmathis@lagunahillsca.gov;
epézold@lagunahillsca.gov; dwheeler@lagunahillsca.gov

Cc: cd@lagunahillsca.gov; james@lagunahillsca.gov; jlee@lagunahillsca.gov;
gsimonian@woodruff.law

Dear Laguna Hills City Council and Planning Agency,

The California Housing Defense Fund (“CalHDF”) submits this letter to remind the City of Laguna Hills (“the City”) of its obligation to abide by all relevant state housing laws when evaluating the proposed 180-unit senior housing development project at 25250 – 25260, 25732, 25758 La Paz Road, which includes 18 very low-income units. These laws include the Housing Accountability Act (Gov. Code, § 65589.5; the “HAA”), AB 1886, SB 330 (Gov. Code, § 65941.1), and AB 130.

Under the HAA,¹ a city may not disapprove a qualifying affordable housing project (i.e., a housing development project that provides a certain percentage of the total units to lower income households, as defined by Health and Safety Code Section 50079.5) on the grounds it does not comply with the local zoning and general plan if the developer submitted either a statutorily defined “preliminary application” or a “complete development application” while the city’s housing element was not in substantial compliance with state law. (See Gov. Code, § 65589.5, subs. (d)(5), (h)(5), (o)(1).) This statutory provision temporarily suspends the power of non-compliant municipalities to enforce their zoning rules against qualifying affordable housing projects. (See, e.g., *California Housing Defense Fund v. City of La Cañada Flintridge*,

¹ AB 1893, effective January 1, 2025, has amended the “Builder’s Remedy” provisions of the HAA. However, the AB 1893 allows for vested Builder’s Remedy applications to proceed under current law or opt into the provisions of the new law, at the choice of the project applicant. (Gov. Code, § 65589.5, subd. (f)(7).)

Case Number: 23STCP02614 (attached), for a recent court decision affirming the plain language of the statute in this regard.)

Of note, this project has now been revised to fulfill the definition of “Builder’s Remedy” project pursuant to Government Code, section 65589.5, subdivision (h)(11) and is eligible for the protections of the HAA. (*Id.* at subd. (d)(6).)

Laguna Hills’s Housing Element was not in substantial compliance with state law when the preliminary application under SB 330 was submitted for the projects at issue, and the City must allow the project to be developed as proposed under the builder’s remedy.

The applicant submitted its preliminary application pursuant to SB 330 on December 22, 2024. This vested the status of local regulations on the date of that preliminary application. (See Gov. Code, § 65941.1)

According to the City’s staff report for the project, the City had adopted an updated Housing Element on June 28, 2022. In May 2023, the state department of Housing and Community Development (“HCD”) informed the City that its Housing Element was not compliant with state law, stating in its May 8, 2023 letter, “... the housing element cannot be found in substantial compliance until the City has completed necessary rezones to make prior identified sites available or address the shortfall of sites to accommodate the regional housing needs allocation ...”

On March 24, 2023, the City adopted an amended Housing Element, which HCD determined to be in substantial compliance with Housing Element law on May 23, 2024.

In 2024, AB 1886 was signed into law. Among other provisions, the legislation added section 65589.55 to the Government Code, which reads as follows:

(a) For purposes of a local agency’s approval, conditional approval, or disapproval of a housing development project pursuant to subdivision (d) of Section 65589.5, a housing element or amendment shall be considered in substantial compliance with this article only if the element or amendment was in substantial compliance, as determined by the department or a court of competent jurisdiction, when a preliminary application, including all of the information required by subdivision (a) of Section 65941.1, was submitted or, if a preliminary application was not submitted, when a complete application pursuant to Section 65943 was submitted.

(b) This section does not constitute a change in, but is declaratory of, existing law.

Of note, while the City’s staff report quotes a portion of subdivision (a), it omits subdivision (b) in its entirety. However, subdivision (b) is crucial, as it establishes that this section is declaratory of existing law. This means that the City’s Housing Element complies with

Housing Element law as of the date that HCD determined it to be in substantial compliance, which is May 23, 2024.

Given aforementioned provisions of AB 1886, the fact that HCD did not find the City in substantial compliance with Housing Element law until May 23, 2024, and the project's SB 330 vesting date of December 22, 2024, the project clearly qualifies as a Builder's Remedy project pursuant to the HAA.

The project is also eligible for a statutory exemption from the provisions of the California Environmental Quality Act pursuant to AB 130 (Pub. Res. Code, § 21080.66), which was signed into law on June 30, 2025 and effective immediately (Assembly Bill No. 130, 2025-2026 Regular Session, Sec. 74, available [here](#)). Caselaw from the California Court of Appeal affirms that local governments err, and may be sued, when they improperly refuse to grant a project a CEQA exemption or streamlined CEQA review to which it is entitled. (*Hilltop Group, Inc. v. County of San Diego* (2024) 99 Cal.App.5th 890, 911.)



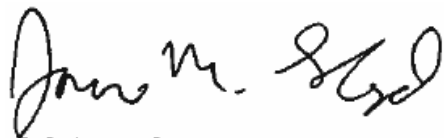
As you are well aware, California remains in the throes of a statewide crisis-level housing shortage. New housing such as this is a public benefit; it will bring increased tax revenue and new customers to local businesses; it will house our seniors, our most important asset; and it will reduce displacement of existing residents. While no one project will solve the statewide housing crisis, the proposed development is a step in the right direction. CalHDF urges the City to approve the projects, consistent with its obligations under state law.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

[REDACTED]

FILED
Superior Court of California
County of Los Angeles

MAR 04 2024

David W. Slayton, Executive Officer/Clerk of Court
By: F. Becerra, Deputy

CALIFORNIA HOUSING DEFENSE FUND v. CITY OF LA CAÑADA FLINTRIDGE

Case Number: 23STCP02614 [Related to Case No. 23STPC02575]

Hearing Date: March 1, 2024

**ORDER ON PETITIONS FOR WRIT OF MANDATE AND COMPLAINTS FOR
DECLARATORY RELIEF**

Under the Housing Accountability Act (HAA), Government Code¹ section 65589.5, a municipality may not “disapprove” a qualifying affordable housing project on the grounds it does not comply with the municipality’s zoning and general plan if the developer submitted either a statutorily defined “preliminary application” or a “complete development application” while the city’s housing element was not in substantial compliance with state law. (See § 65589.5, subds. (d)(5), (h)(5), (o)(1).) This statutory provision, colloquially known as the “Builder’s Remedy,” incentivizes compliance with the Housing Element Law by temporarily suspending the power of non-compliant municipalities to enforce their zoning rules against qualifying affordable housing projects.

Respondents, the City of La Cañada Flintridge, the City of La Cañada Flintridge Community Development Department, and the City of La Cañada Flintridge City Council (collectively, Respondents or the City) determined Petitioner 600 Foothill Owner, L.P.’s (600 Foothill) proposed mixed-use development did not qualify for the Builder’s Remedy. Petitioner 600 Foothill, Petitioner California Housing Defense Fund (CHDF), and Petitioners-Intervenors the People of the State of California, Ex. Rel. Rob Bonta and the California Department of Housing and Community Development (HCD)(collectively, Intervenors), challenge Respondents’ decision.

The petitions are granted. The court orders a writ shall issue directing Respondents to set aside their May 1, 2023 decision finding 600 Foothill’s application does not qualify as a Builder’s Remedy project and to process the application in accordance with the HAA.

JUDICIAL NOTICE

600 Foothill’s Request for Judicial Notice (RJN) filed November 8, 2023 is denied as to Exhibit A and granted as to Exhibits B through F. Respondents’ objections to Exhibits B through F are overruled. Respondents’ objections 1 and 4 are sustained to the extent they pertain to Exhibit A.

¹ All further undesignated statutory references are to this code.

Respondents' RJN in support of its opposition to the 600 Foothill petition is granted as to all referenced exhibits except as to Exhibits D-3, V and BB.²

600 Foothill's Reply RJN of Exhibit AA is granted.

CHDF's RJN of Exhibits A through D is granted.

Respondents' RJN in support of its opposition to the CHDF petition is granted as to all referenced exhibits except as to Exhibit D-3 and V. Except as to Exhibits D-3 and V, the objections of Intervenor and CHDF are overruled.

For all RJNs, the court does not judicially notice any particular interpretation of the records. Nor does the court judicially notice the truth of hearsay statements within the judicially noticed records.

EVIDENTIARY OBJECTIONS, MOTION *IN LIMINE* AND CODE OF CIVIL PROCEDURE SECTION 1094.5, SUBDIVISION (E)

Preliminarily, the court finds none of the parties' evidentiary objections are material to the disposition of any cause of action or issue. The court nonetheless rules on the objections for completeness. The court notes it is not required to parse through long narratives with generalized objections. The court may overrule an objection if the material objected to contains unobjectionable material. The parties make many objections to multiple sentences where much or some of the material is not objectionable. (See *Fibreboard Paper Products Corp. v. East Bay Union of Machinists, Local 1304, United Steelworkers* . . . (1964) 227 Cal.App.2d 675, 712.)

600 Foothill's Objections

Declaration of Lynda-Jo Hernandez: All objections are overruled.

Declaration of Kim Bowan: All objections are overruled except 3, 12 and 17.

Declaration of Peter Sheridan: All objections are overruled.

Declaration of Keith Eich: All objections are overruled.

Declaration of Susan Koleda: All objections are overruled.

Declaration of Teresa Walker: All objections are overruled except 3, 11, 17, 26 and 29.

Declaration of Richard Gunter III: All objections are overruled except 5-8 and 14-20.

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² Contrary to 600 Foothill's assertion, Respondents did not request judicial notice of Exhibit A to the Koleda declaration. 600 Foothill and Intervenor appear correct—Respondents did not submit Exhibits D-3 or V with the Koleda declaration. Accordingly, the court cannot judicially notice Exhibits D-3 or V.

Respondents' Objections to 600 Foothill's Evidence

Declaration of Melinda Coy: All objections are overruled.

Reply Declaration of Garret Weyand: All objections are overruled except 3, 4, 7 and 8.³

Intervenors' Objections

Declaration of Susan Koleda: All objections are overruled.

CHDF's Objections

Declaration of Teresa Walker: All objections are overruled except 2, 4 and 6.

Declaration of Susan Koleda: All objections are overruled.

Declarations of Eich, Bowman, Gunter III and Hernandez are all overruled as discussed *infra*.

Motion *In Limine*

Respondents' Motion *In Limine* to Exclude Issues or Evidence (filed February 5, 2024) is denied. Respondents do not demonstrate 600 Foothill has submitted any evidence concerning "infeasibility" of the project that is *outside* of the administrative record. Respondents do not require discovery to respond to 600 Foothill's infeasibility arguments given such arguments are based entirely on the administrative record. (See § 65589.5, subd. (m)(1); Code Civ. Proc., § 1094.5, subd. (e).)

Code of Civil Procedure section 1094.5, Subdivision (e)

Section 65589.5, subdivision (m)(1) in the HAA specifies "[a]ny action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure. . . ." Accordingly, the HAA causes of action are subject to the limitations on extra-record evidence in Code of Civil Procedure section 1094.5, subd. (e). Nonetheless, the HAA causes of action involve questions of substantial compliance with the Housing Element Law, governed, at least in part, by Code of Civil Procedure section 1085. (See e.g., § 65587, subd. (d)(2).) Code of Civil Procedure section 1094.5, subdivision (e) does not apply to a cause of action governed by Code of Civil Procedure section 1085.

The parties have neglected to suggest which parts of their declarations are subject to Code of Civil Procedure sections 1094.5, 1085 or both. The parties also have not moved to augment the administrative record pursuant to Code of Civil Procedure section 1094.5, subdivision (e). Under the circumstances, the court will admit and consider the parties' declarations despite the court

³ The declaration is properly submitted to respond to the defense of unclean hands and allegations of "manipulation of the HCD approval process" discussed in Respondents' opposition brief.

having made no order to augment the record.⁴ The court notes, however, even if the court excluded all the extra-record evidence submitted, including the lengthy Koleda declarations, the result here would not change.

BACKGROUND

The Housing Element Law⁵

"In 1980, the Legislature enacted the Housing Element Law, 'a separate, comprehensive statutory scheme that substantially strengthened the requirements of the housing element component of local general plans.' " (*Martinez v. City of Clovis* (2023) 90 Cal.App.5th 193, 221-222 [*Martinez*].)

A housing element within a general plan must include certain components, including, but not limited to: an assessment of housing needs and the resources available and constraints to meeting those needs; an inventory of sites available to meet the locality's housing needs at different income levels, including the Regional Housing Needs Allocation (RHNA); a statement of goals, quantified objectives, and policies to affirmatively further fair housing; and a schedule of actions to address the housing element's goals and objectives. (§ 65583, subds. (a), (b), (c).)

"A municipality must review its housing element for the appropriateness of its housing goals, objectives, and policies and must revise the housing element in accordance with a statutory schedule. (§ 65588, subds. (a), (b).) The interval between the due dates for the revised housing element is referred to as a planning period or cycle, which usually is eight years." (*Martinez, supra*, 90 Cal.App.5th at 221-222.)

"Before revising its housing element, a local government must make a draft available for public comment and, after comments are received, submit the draft, as revised to address the comments, to the Department of Housing and Community Development (HCD). (§ 65585, subd. (b)(1); see § 65588 [review and revision of housing element by local government].) After a draft is submitted, the HCD must review it, consider any written comments from any public agency, group, or person, and make written findings as to whether the draft substantially complies with the Housing Element Law. (§ 65585, subds. (b)(3), (c), (d); . . .) [¶] If the HCD finds the draft does not substantially comply with the Housing Element Law, the local government must either (1) change the draft to substantially comply or (2) adopt the draft without changes along with a resolution containing findings that explain its belief that the draft substantially complies with the law. (§ 65585, subd. (f).)" (*Martinez, supra*, 90 Cal.App.5th at 221-222.)

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⁴ At the conclusion of the hearing, the parties agreed the court could consider all of the evidence before it without regard to Code of Civil Procedure section 1094.5, subdivision (e).

⁵ See section 65580, *et seq.*

The City's October 2021 and October 2022 Draft Housing Elements, and HCD's Findings the City Had Not Attained Substantial Compliance with the Housing Element Law

Under the Housing Element Law, the City had a statutory deadline of October 15, 2021 to adopt a substantially compliant 6th cycle housing element. (AR 443.) The City submitted its draft housing element to HCD on that day. (AR 443.)

On December 3, 2021, HCD informed the City while the draft "addresses many statutory requirements," to comply with the Housing Element Law, significant revisions were required. (AR 443, 445-453.) HCD identified fourteen areas within the first version of the City's draft housing element that required specific programmatic revisions, organized into three broad categories—housing needs, resources, and constraints; housing programs; and public participation. (AR 445-453.) As examples, HCD found the draft Housing element lacked a sufficient site inventory analysis identifying potential sites for housing development distributed in a manner to affirmatively further fair housing, or an inadequate site inventory of the City's vacant and underutilized sites to meet the City's RHNA determination. (AR 445-447.)

Ten months later, on October 4, 2022, the City adopted its 2021-2029 housing element (October 2022 Housing Element). (AR 4504-4508, 4509 [Housing Element].) The City thereafter submitted its adopted Housing Element to HCD for review. (AR 5263.)

On December 6, 2022, HCD informed the City "[t]he adopted housing element addresses most statutory requirements described in HCD's [prior] review; however, additional revisions are necessary to fully comply with State Housing Element Law." (AR 5263 [referencing a May 26, 2021 review].) HCD's findings of non-compliance for the October 2022 Housing Element are discussed further in the Analysis section *infra*.

600 Foothill's Preliminary Application

On November 10, 2022—after the City's adoption of the October 2022 Housing Element but before HCD's December 6, 2022 review—600 Foothill submitted the Preliminary Application seeking the City's approval to construct a mixed-used project on a site located at 600 Foothill Boulevard, which is currently occupied by two vacant church buildings and a surface parking lot. (AR 5241.) 600 Foothill proposed to build 80 apartments on the site, 16 of which (or 20 percent) would be reserved for persons earning less than sixty percent of the area median income (the Project). (AR 5243.) 600 Foothill's Preliminary Application explained "given that the City continues to have a Housing Element that is out of compliance with state law," 600 Foothill proposed the Project as a Builder's Remedy project pursuant to section 65589.5, subdivision (d)(5) meaning the Project was not required to account for the City's zoning ordinance or general plan land use designation. (AR 5235.)

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The City Staff Acknowledge Changes to the October 2022 Housing Element Are Necessary to Comply with HCD's Findings

The City's Director of Community Development, Susan Koleda, acknowledged on January 11, 2023 in an email communication that "[a]ll additional changes to the Housing Element have yet to be determined but will likely require additional [Planning Commission/City Council] approval." (AR 12894.) At the City's January 12, 2023 Planning Commission meeting, City staff acknowledged revisions were required for "the Housing Element to be in conformance" with applicable law. (AR 5274-5275.) Director Koleda also stated in a February 9, 2023 email communication that "additional clarifications were required" to the October 2022 Housing Element, and "[t]he additional information will be incorporated into a revised Housing Element, scheduled to be adopted by the City Council on February 21, 2023. It will then be submitted to HCD for review as a third submittal." (AR 13011.)

The City Adopts a February 2023 Housing Element, Fails to Rezone, and "Certifies" Its Substantial Compliance with the Housing Element Law

On February 21, 2023, the City adopted its third revised housing element which addressed the deficiencies to the October 2022 Housing Element identified by HCD. (AR 6274-6279.) In its resolution adopting the revised housing element, the City Council stated it "certifies that the City's Housing Element was in substantial compliance with State Housing Element law as of the October 4, 2022 Housing Element adopted by the City Council. . . ." (AR 6274.) Despite use of the word "certifies" in the City's resolution, Director Koleda opined at the February 21, 2023 council meeting that the "consensus" from the City Attorney, the City's consultants, and HCD was that "self-certification" of the City's housing element "is not an option." (AR 6207-6208; see also Opposition to Intervenor 19:18-21:7 ["wrongly accuse . . . of 'back-dating' and 'self-certifying' ".])

At the time the City adopted its third revised housing element on February 21, 2023, it had not completed the rezoning required by the Housing Element Law. Accordingly, on April 24, 2023, HCD found, although the February 2023 housing element addressed the previously identified deficiencies in the October 2022 Housing Element, and met "most of the statutory requirements of State Housing Law," the City was not in substantial compliance with the Housing Element Law because the City adopted the February 2023 housing element more than one year past the statutory due date of October 15, 2021 and the City had not completed its statutorily required rezoning. (AR 6297-6300; see also AR 7170-7171.) As a result, HCD found the City could not be deemed in substantial compliance with state law *until* it completed all required rezones. (AR 6297-6300; see § 65588, subd. (e)(4)(C)(iii). ["A jurisdiction that adopts a housing element more than one year after the statutory deadline . . . shall not be found in substantial compliance with this article until it has completed the rezoning required by" the Housing Element Law].)

In its April 24, 2023 letter, HCD also opined that "a local jurisdiction cannot 'backdate' compliance to the date of adoption of a housing element," and the City was not in substantial

compliance with the Housing Element Law as of October 4, 2022, notwithstanding its “certification” in the City’s February 21, 2023 resolution. (AR 6297-6298.)

The City Determines 600 Foothill’s Preliminary Application Could Not Rely on the Builder’s Remedy and the City Council Affirms the Decision

On February 10, 2023, in response to 600 Foothill’s Preliminary Application, the City issued an incompleteness determination (the First Incompleteness Determination) requesting additional detail on several issues. The First Incompleteness Determination did not allege any inconsistencies between the Project and the City’s zoning ordinance and general plan. (AR 5276-5279.) Petitioner supplemented its application materials in response to the First Incompleteness Determination on April 28, 2023. (See AR 6305, 7095-7096, 7152-7153, 7169, 7166, 8050-8060.)

On March 1, 2023, the City issued a second incompleteness determination (the Second Incompleteness Determination). The Second Incompleteness Determination advised 600 Foothill the Builder’s Remedy did not apply to the Project making the Preliminary Application incomplete for its failure to comply with the City’s general plan zoning laws and residential density limitations. (AR 6280-6281; see AR 7176.)

On March 9, 2023, 600 Foothill appealed the Second Incompleteness Determination. (See § 65943, subd. (c); AR 6282-6287, AR 12926.) In support of its appeal, 600 Foothill provided a letter from its attorney explaining 600 Foothill’s position the City Council’s failure to grant the appeal would constitute a violation of the HAA. (AR 6304-6462, 6317 [“flouts the law”].)

The City Council heard 600 Foothill’s appeal on May 1, 2023. The City Council voted unanimously to adopt Resolution No. 23-14, denying the appeal and upholding the Second Incompleteness Determination (the May 1, 2023 Decision). (AR 7151-7160, AR 7161-7168.)

On June 8, 2023, HCD sent the City a Notice of Violation advising the City it violated the HAA and Housing Element Law by denying 600 Foothill’s appeal. (AR 7170-7175.) HCD summarized the alleged violations:

The City cannot ‘backdate’ its housing element compliance date to an earlier date so as to avoid approving a Builder’s Remedy application. In short, the October 4, 2022 Adopted Housing Element did not substantially comply with State Housing Element Law, regardless of any declaration by the City. Therefore, the Builder’s Remedy applies, and the City’s denial of the Project application based on inconsistency with zoning and land use designation is a violation of the HAA. (AR 7170.)

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The City Determines the Application is Complete and the Project is Inconsistent with City's Zoning Code and General Plan

On May 26, 2023, the City informed 600 Foothill that its Project application was complete. (AR 7169.) On June 24, 2023, the City advised 600 Foothill:

[I]t remains the City's position (as affirmed by City Council on May 1, 2023) that the 2021-2029 Housing Element was in substantial compliance with state law as of October 4, 2022. Based on that, staff reviewed the project for consistency with the General Plan, applicable provisions of the Downtown Village Specific Plan (DVSP), the Zoning Code, and the density proposed within the 2021-2029 Housing Element. In accordance with [] § 65589.5(j)(2)(A), this letter serves as an explanation of the reasons that the City considers the proposed project to be inconsistent, not in compliance, or not in conformity with these aforementioned guiding documents. (AR 7176.)

The City Completes Rezoning and HCD Certifies the City's Substantial Compliance with the Housing Element Law

On September 12, 2023, the City adopted a resolution completing its rezoning commitments set forth in its housing element. HCD reviewed the materials and, on November 17, 2023, sent a letter to the City finding the City had "completed actions to address requirements described in HCD's April 24, 2023 review letter." (Coy Decl. ¶ 12, Exh. D.)

Writ Proceedings

On July 21, 2023, 600 Foothill filed its verified petition for writ of mandate and complaint for declaratory and injunctive relief against Respondents. On July 25, 2023, CHDF filed its verified petition for writ of mandate and complaint for declaratory relief. The court has related the two actions and coordinated them for trial and legal briefing. The court denied Respondents' motion to consolidate the two actions.

On December 20, 2023, pursuant to a stipulation, Intervenor filed their petition for writ of mandate and complaint for declaratory relief in the CHDF proceeding.

For this proceeding, the court has considered 600 Foothill's Opening Brief, CHDF's Opening Brief, Intervenor's Opening Brief, Respondents' three opposition briefs, 600 Foothill's Reply Brief, CHDF's Reply Brief, Intervenor's Reply Brief, the administrative record, the joint appendix, all requests for judicial notice, and all declarations (including exhibits).⁶

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⁶ The court accounted for its evidentiary rulings as to the evidence.

STANDARD OF REVIEW

Pursuant to the Los Angeles County Court Rules (Local Rules), “[t]he opening and opposition briefs must state the parties’ respective positions on whether the petitioner is seeking traditional or administrative mandamus, or both.” (Local Rules, Rule 3.231, subd. (i)(1).) The parties must also provide their position on the standard of review in their briefing. (See Local Rule, Rule 3.231, subd. (i)(3).)

600 Foothill, CHDF and Respondents do not suggest the standard of review that applies to the causes of action. Intervenor argues Code of Civil Procedure section 1085, not Code of Civil Procedure section 1094.5, applies to their petition.

Under Code of Civil Procedure section 1094.5, subdivision (b), the relevant issues are whether (1) the respondent has proceeded without jurisdiction, (2) there was a fair trial, and (3) there was a prejudicial abuse of discretion. An abuse of discretion is established if the agency has not proceeded in the manner required by law, the decision is not supported by the findings, or the findings are not supported by the evidence. (Code Civ. Proc., § 1094.5, subd. (b).)

In administrative mandate proceedings not affecting a fundamental vested right, the trial court reviews administrative findings for substantial evidence. Substantial evidence is relevant evidence that a reasonable mind might accept as adequate to support a conclusion (*California Youth Authority v. State Personnel Board* (2002) 104 Cal.App.4th 575, 584-85), or evidence of ponderable legal significance which is reasonable in nature, credible and of solid value. (*Mohilef v. Janovici* (1996) 51 Cal.App.4th 267, 305 n. 28.) Under the substantial evidence test, “[c]ourts may reverse an [administrative] decision only if, based on the evidence . . . , a reasonable person could not reach the conclusion reached by the agency.” (*Sierra Club v. California Coastal Com.* (1993) 12 Cal.App.4th 602, 610.) The court does “not weigh the evidence, consider the credibility of witnesses, or resolve conflicts in the evidence or in the reasonable inferences that may be drawn from it.” (*Doe v. Regents of University of California* (2016) 5 Cal.App.5th 1055, 1073.)

To obtain a traditional writ of mandate under Code of Civil Procedure section 1085, there are two essential findings. First, there must be a clear, present, and ministerial duty on the part of the respondent. Second, a petitioner must have a clear, present, and beneficial right to the performance of that duty. (*California Ass’n for Health Services at Home v. Department of Health Services* (2007) 148 Cal.App.4th 696, 704.) “Generally, mandamus is available to compel a public agency’s performance or to correct an agency’s abuse of discretion when the action being compelled or corrected is ministerial.” (*AIDS Healthcare Foundation v. Los Angeles County Dept. of Public Health* (2011) 197 Cal.App.4th 693, 700.)

An agency is presumed to have regularly performed its official duties. (Evid. Code, § 664.) Under Code of Civil Procedure section 1094.5, the “trial court must afford a strong presumption of correctness concerning the administrative findings.” (*Fukuda v. City of Angels* (1999) 20 Cal.4th 805, 817.) A petitioner seeking administrative mandamus has the burden of proof and must cite

the administrative record to support its contentions. (See *Alford v. Pierno* (1972) 27 Cal.App.3d 682, 691.) Similarly, a petitioner “bears the burden of proof in a mandate proceeding brought under Code of Civil Procedure section 1085.” (*California Correctional Peace Officers Assn. v. State Personnel Bd.* (1995) 10 Cal.4th 1133, 1154.) A reviewing court “will not act as counsel for either party to a [challenge to an administrative decision] and will not assume the task of initiating and prosecuting a search of the record for any purpose of discovering errors not pointed out in the briefs.” (*Fox v. Erickson* (1950) 99 Cal.App.2d 740, 742 [context of civil appeal].)

“ ‘On questions of law arising in mandate proceedings, [the court] exercise[s] independent judgment.’ . . . Interpretation of a statute or regulation is a question of law subject to independent review.” (*Christensen v. Lightbourne* (2017) 15 Cal.App.5th 1239, 1251.)

ANALYSIS

Petition for Writ of Mandate – Violations of the HAA

600 Foothill, CHDF, and Intervenor seek a writ of mandate to enforce the requirements of the HAA against the City. Among other relief, they seek a writ directing Respondents to set aside the City Council’s “decision, on May 1, 2023, to disapprove an application for a housing development project at 600 Foothill Boulevard, and compelling Respondent to approve the application or, in the alternative, to process it in accordance with the law.” (CHDF Pet. Prayer ¶ 1; see also 600 Foothill Pet. Prayer ¶¶ 3-5 and Intervenor Pet. Prayer ¶¶ 1-3.)⁷

Standard of Review

As noted, the HAA at section 65589.5, subdivision (m)(1) specifies “[a]ny action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure. . . .” Nonetheless, Intervenor argues Code of Civil Procedure section 1085, not Code of Civil Procedure section 1094.5, applies because Respondents have a “ministerial duty under the HAA to process the Foothill Owner’s Builder’s Remedy application.” (Intervenor’s Opening Brief 10:27; see *Sunset Drive Corp. v. City of Redlands* (1999) 73 Cal.App.4th 215, 221-222. [“A writ of mandate may be issued by a court to compel the performance of a duty imposed by law.”])

While there is a colorable argument Code of Civil Procedure section 1085 applies to parts of the HAA claims involving the Housing Element Law, given the Legislature’s clear instructions in section 65589.5, subdivision (m)(1), the court concludes Petitioners’ writ petitions to enforce the HAA are all governed by Code of Civil Procedure section 1094.5.

⁷ 600 Foothill’s writ claims under the HAA are alleged in its third through fifth causes of action while CHDF’s and Intervenor’s are alleged in their first causes of action.

The court's task "is therefore to determine whether the City 'proceeded in the manner required by law,' with a decision supported by the findings, and findings supported by the evidence; if not, the City abused its discretion." (*California Renters Legal Advocacy and Education Fund v. City of San Mateo* (2021) 68 Cal.App.5th 820, 837.) The City "bear[s] the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5." (§ 65589.6.)

As noted, based on the circumstances, the court reaches the same result in its analysis even if the petitions, or parts thereof, are governed by Code of Civil Procedure section 1085. (See e.g., § 65587, subd. (d)(2) [action to compel compliance with Housing Element Law "shall" be brought pursuant to Code of Civil Procedure section 1085].) The HAA claims raise legal questions of statutory construction and concerns about Respondents' substantial compliance with the Housing Element Law. The court decides such issues independently, regardless of whether Code of Civil Procedure section 1094.5 or 1085 governs. (See e.g. *Martinez, supra*, 90 Cal.App.5th at 237.)

The City "Disapproved" the Builder's Remedy Project

600 Foothill contends the City "disapproved" the Project, as the term is defined in the HAA, because the City "determined that the Project could not proceed because it believed the Builder's Remedy was inapplicable." (600 Foothill Opening Brief 7:11-12.) CHDF and Intervenor make the same argument. (CHDF Opening Brief 21:25-28; Intervenor's Opening Brief 15:27-16:3.)

The Builder's Remedy, at section 65589.5, subdivision (d)(5) provides in pertinent part:

(d) A local agency **shall not disapprove** a housing development project . . . for very low, low-, or moderate-income households . . . unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

. . . .

(5) The housing development project . . . is inconsistent with both the jurisdiction'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 jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article. (Emphasis added.)

Thus, to prove their claim under the HAA and to proceed with the Project as a Builder's Remedy, Petitioners must show the City "disapprove[d] a housing development project."

(§ 65589.5, subd. (d).)⁸ Section 65589.5, subdivision (h)(6) provides to “ ‘disapprove the housing development project’ **includes** any instance in which a local agency does any 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 . . .**” (Emphasis added.)

Here, on May 1, 2023, the City Council denied Petitioner’s appeal of the Second Incompleteness Determination stating:

[T]he City Council of the City of La Cañada Flintridge hereby denies the appeal and upholds the Planning Division’s March 1, 2023, incompleteness determination for the mixed use project at 600 Foothill Boulevard, on the basis that the ‘builder’s remedy’ under the Housing Accountability Act does not apply and is not available for the project, and that the project did not ‘vest’ as a ‘builder’s remedy’ project as alleged in the project’s SB 330 Preliminary Application submission dated November 14, 2022, because the City’s Housing Element was, as of October 4, 2022, in substantial compliance with the Housing Element law. (AR 7167.)

Notably, Director Koleda informed the City Council, prior to its vote on the appeal, that “if the appeal is denied, the project will be processed accordingly as a standard, nonbuilder’s remedy project.” (AR 7103.) Thus, the City Council “voted” on a proposed housing development project application and determined the Project could not proceed as a Builder’s Remedy project—that is, the Project would be subject to the City’s discretionary approvals.

The Legislature has expressed its intent that the HAA “be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing.” (§ 65589.5, subd. (a)(2)(L); *California Renters Legal Advocacy & Education Fund. v. City of San Mateo*, *supra*, 68 Cal.App.5th at 854.) In addition, “[a]s a basic principle of statutory construction, ‘include’ is generally used as a word of enlargement and not of limitation. . . . Thus, where the word ‘include’ is used to refer to specified items, it may be expanded to cover other items.” (*Rea v. Blue Shield of California* (2014) 226 Cal.App.4th 1209, 1227.) Applying these canons of statutory construction, the court finds section 65589.5, subdivision (h)(6) should be given a broad construction. Because the City Council made clear any required land use approvals or entitlements would not be issued for the Project, **as a Builder’s Remedy project**, the City Council’s May 1, 2023 decision falls within the HAA’s broad definition of “disapprove.”

⁸ It is undisputed the Project constitutes a “housing development project . . . for very low, low-, or moderate-income households” within the meaning of the HAA. HCD advised the City on June 8, 2023: “The Project is proposed as an 80-unit mixed-use project where 20 percent of the units (16 units) will be affordable to lower-income households. The residential portion equates to approximately 89 percent of the Project; therefore, the Project qualifies as a ‘housing development project’ under the HAA (Gov. Code, § 65589.5, subd. (h)(2)(B)).” (AR 7171.) Respondents develop no argument to the contrary.

Respondents contend:

600 Foothill defined the “approvals” and “entitlements” it sought in its application – namely, a Conditional Use Permit (USE-2023-0016), Tentative Tract Map 83375 (LAND-2023-0001), and Tree Removal Permit (DEV-2023-0003). (AR 5285.) There was no vote on May 1, 2023, on any of these “required land use approvals” or “entitlements” and, thus, . . . the “vote” needed under the HAA has not occurred. (Opposition to 600 Foothill 19:22-26 [emphasis in original].)

Respondents’ narrow interpretation of the statute is unpersuasive. (See § 65589.5, subd. (a)(2)(L).) While the City Council may not have voted to deny the conditional use permit, tentative tract map, and tree removal permit, the City Council voted on May 1, 2023 and determined the Project could not proceed as the project proposed—a Builder’s Remedy project. Because the Project was proposed as a Builder’s Remedy, the City Council’s May 1, 2023 vote on the project application was a “disapproval” within the meaning of the HAA.

Respondents also contend “[t]he City cannot as a matter of law approve or disapprove a development project, including a project under the Builder’s Remedy, prior to conducting environmental review under CEQA”⁹ (Opposition to 600 Foothill 16:15-16.) Respondents argue the HAA does not authorize the court “to order the City to accommodate CEQA review after a possible finding by the Court of a violation of the HAA.” (Opposition to 600 Foothill 16:25-26 [emphasis in original].)

Again, Respondents’ arguments are unpersuasive—a city can disapprove a project without having undertaken CEQA review. Nothing requires a city to undertake CEQA review *before deciding to disapprove a project*. CEQA does not apply to “[p]rojects which a public agency rejects or disapproves.” (Pub. Res. Code, § 21080, subd. (b)(5).) “[I]f an agency at any time decides not to proceed with a project, CEQA is inapplicable from that time forward.” (*Las Lomas Land Co., LLC v. City of Los Angeles* (2009) 177 Cal.App.4th 837, 850.) Respondents do not cite any language from the HAA that supports their position.¹⁰

⁹ CEQA refers to the California Environmental Quality Act at Public Resources Code section 21000, *et seq.*

¹⁰ During argument, the City emphasized its reliance on section 65589.5, subdivision (m)(1) its language concerning finality—an action cannot be brought to enforce the HAA’s provisions until there is a “final action on a housing development project” and the City did not take final action on the Project—it merely determined the Project could not be built as a Builder’s Remedy project and would be subject to discretionary approvals. As noted by 600 Foothill, an action to enforce the HAA may be initiated after a municipality imposes conditions upon, disapproves **or** takes final action on a housing project. The City made clear in its May 1, 2023 Decision that the Project could not proceed as proposed as a Builder’s Remedy project.

While CEQA review is preserved by the HAA¹¹ nothing suggests a disapproval under the HAA can occur only after CEQA review or that a court lacks authority to issue a writ to *compel compliance with the HAA*, even if a Builder's Remedy project is subject to CEQA compliance. Notably, a suit to enforce the HAA must be filed "no later than 90 days from" project disapproval. (§ 65589.5, subd. (m)(1).) Further, the HAA must "be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, housing." (§ 65589.5, subd. (a)(2)(L).) Respondents' interpretation of the HAA, under which a disapproval cannot occur prior to CEQA review, would hinder the approval and provision of housing. Accordingly, an agency may "disapprove" a project under the HAA before conducting any environmental review under CEQA, and a petitioner's claim to enforce the HAA may be ripe for consideration even if CEQA review has not been performed or completed.

Respondents' reliance on *Schellinger Brothers v. City of Sebastopol* (2009) 179 Cal.App.4th 1245, 1262 [*Schellinger*] is misplaced. *Schellinger* involved a request **to compel** the certification of an environmental impact report. *Schellinger* did not hold that all claims under the HAA or other housing laws are unripe or cannot be filed until CEQA review is completed. The case did not address CEQA in the context of a claim to enforce the Builder's Remedy provision in the HAA. The case also did not suggest a trial court lacks discretion to structure a writ issued pursuant to the HAA in a manner that allows for CEQA review to be completed. "An opinion is not authority for propositions not considered." (*People v. Knoller* (2007) 41 Cal.4th 139, 154-55.)

The court acknowledges *Schellinger* advised the HAA "specifically pegs its applicability to the approval, denial or conditional approval of a 'housing development project' . . . which, as previously noted, can occur *only after the EIR is certified*. (CEQA Guidelines, § 15090(a).)" (*Schellinger, supra*, 179 Cal.App.4th at 1262.) Nonetheless, the court's statement must be interpreted in the context of the issues before that Court. Because the agency there had not disapproved the project at issue, the Court's reference to the "denial" of a housing development project was a dictum. In any event, as discussed, *Schellinger* did not decide the legal question presented here—whether the City "disapproved" a Project when it determined, through a vote of its City Council, the Builder's Remedy Project did not qualify for the Builder's Remedy under the HAA.¹²

¹¹ See section 65589.5, subdivisions (e) and (o)(6).

¹² Respondents indicate the City took action to pay for CEQA review of the Project starting in September 2023. (Opposition to 600 Foothill 18:11-14 [citing Sheridan Decl. Exh. JJ].) By that time, however, the City Council had already determined the Project could not proceed as proposed pursuant to the Builder's Remedy. (AR 7167; see also AR 7176.) Respondents do not explain the purpose of CEQA review for a project the City Council has determined could not be approved consistent with the law. This evidence does not support Respondents' position the City Council's May 1, 2023 Decision did not constitute a "disapproval" under the HAA.

Based on the foregoing, Petitioners have demonstrated the City Council “disapproved” the Project with its May 1, 2023 Decision within the meaning of the HAA. Respondents do not show the petitions are “unripe” because CEQA review has not been completed, or that CEQA review is a prerequisite to the “disapproval” of a Project under the HAA. In light of the court’s conclusion, the court need not reach the parties’ contentions regarding *California Renters v. City San Mateo* (2021) 60 Cal.App.5th 820 and appellate briefing from that case. (See Opposition to 600 Foothill 17:10-28 [citing Sheridan Decl. Exh. EE and FF].)

“Vesting” of the Builder’s Remedy and the Date the Project Application was Deemed Complete

Respondents assert the filing of a SB 330 preliminary application does not “vest” the Builder’s Remedy because “when a city is determining whether it can make the finding in subsection (d)(5), it considers the status of its Housing Element *as of the date the finding is made.*” (Opposition to 600 Foothill 23:11-13 [emphasis in original].)

The HAA defines “deemed complete” to mean that “the applicant has submitted a *preliminary application* pursuant to Section 65941.1.” (§ 65589.5, subd. (h)(5) [emphasis added].) Section 65589.5, subdivision (o)(1) states “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.” Construing these statutory provisions, along with section 65589.5, subdivision (d), the court concludes a Builder’s Remedy “vests” if the local agency does not have a substantially compliant housing element at the time a complete preliminary application pursuant to section 65941.1 is submitted and “deemed complete.”

Respondents have not developed any argument the Preliminary Application, submitted in November 2022, lacked the information required by section 65941.1 or was otherwise incomplete within the meaning of the HAA. (See AR 5234-5246.¹³ Thus, if the City’s housing element did not substantially comply with the Housing Element Law at that time (see analysis *infra*), the Builder’s Remedy “vested” when 600 Foothill submitted its Preliminary Application in November 2022.¹⁴

Respondents’ reliance on subdivision (o) of the HAA is misplaced. Section 65589.5, subdivision (o)(4) provides “ ‘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.” (Emphasis added.)

¹³ 600 Foothill’s Preliminary Application used the form generated by the City. 600 Foothill completed the form and included necessary attachments.

¹⁴ 600 Foothill’s Preliminary Application was “deemed complete,” within the meaning of the HAA, when 600 Foothill submitted its application in November 2022. (See AR 5241-5246, 7171; see also Gov. Code §§ 65589.5, subdivision (h)(5) and 65941.1.) During argument, Respondents appeared to conflate the Preliminary Application with a formal project application.

The housing element is a mandatory element of the general plan. (§ 65582, subd. (f).) Section 65589.5, subdivision (o)(1) precludes Respondents from retroactively applying a housing element to a Builder's Remedy project that "vested" before certification of the housing element.

Respondents' vesting argument is also inconsistent with the HAA's policy of promoting housing. (§ 65589.5, subd. (a)(2)(L).) If Respondents' position was correct, as a practical matter "no housing developer would ever submit a builder's remedy application because of the uncertainty about whether the project would remain eligible long enough to be approved." (CHDF Reply 19:8-9.)

600 Foothill's Preliminary Application was "deemed complete," for purposes of the HAA, in November 2022 when 600 Foothill submitted its Preliminary Application. If the Builder's Remedy applies (see *infra*), it therefore "vested" in November 2022.¹⁵

The City Could Not Be in Substantial Compliance with the Housing Element Law until it Completed Rezoning

Petitioners contend the City's housing element was not in substantial compliance with the Housing Element Law when 600 Foothill filed its Preliminary Application because the City had not completed the rezoning required by sections 65583, subdivision (c)(1)(A) and section 65583.2, subdivision (c). (See 600 Foothill Opening Brief 12:21-23.) Petitioners are correct.

Section 65588, subdivision (e)(4)(C)(i) states:

For the adoption of the sixth revision and each subsequent revision, a local government that does not adopt a housing element that the department has found to be in substantial compliance with this article within 120 days of the applicable deadline described in subparagraph (A) or (C) of paragraph (3) shall comply with subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2 within one year of the statutory deadline to revise the housing element.

Section 65588, subdivision (e)(4)(C)(iii) states:

A jurisdiction that adopts a housing element more than one year after the statutory deadline described in subparagraph (A) or (C) of paragraph (3) **shall not be found in substantial compliance with this article until it has completed the**

¹⁵ However, the court reaches the same result in its analysis below even if the application was deemed complete or "vested" anytime up to May 1, 2023, the date of City Council's decision. The City did not complete its required rezoning until September 12, 2023. (See § 65588, subd. (e)(4)(C)(iii).)

rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 and subdivision (c) of Section 65583.2. (Emphasis added.)¹⁶

Thus, the statute mandates the jurisdiction “shall not be found in substantial compliance” until completing the rezoning. (*Ibid.*)¹⁷ The plain language of the statutory prohibition is not limited to HCD; the prohibition therefore applies to the courts.

As applied here, the City’s statutory deadline to adopt a substantially compliant 6th cycle housing element was October 15, 2021. (AR 443.) The City submitted its draft housing element to HCD on October 15, 2021. (AR 443.) Because the City failed to secure certification of its 6th cycle housing element within 120 days of its statutory deadline of October 15, 2021 (see AR 443-447), October 15, 2022 served as the City’s deadline to complete its required rezoning. (§ 65583, subd. (c)(1)(A).) It is undisputed the City did not complete the required rezoning until September through November 2023.

Pursuant to the plain language of section 65588, subdivision (e)(4)(C)(iii), the City “shall not be found” in substantial compliance with the Housing Element Law until the City completed its rezoning in September through November 2023. As a result, the City did not have a substantially compliant housing element when 600 Foothill submitted its Preliminary Application to the City in November 2022; the Builder’s Remedy therefore applies to the Project.

Respondents do not challenge the plain language interpretation of section 65588, subdivision (e)(4)(C)(iii).¹⁸ Thus, they concede where an agency has failed to adopt a substantially compliant housing element by more than a year after the statutory deadline to do so, the agency cannot be found in substantial compliance with the Housing Element Law by HCD or a court until it

¹⁶ During argument, Respondents objected to the court’s consideration of legislative history referenced in the court’s tentative order distributed prior to the hearing. The court relied 600 Foothill’s RJN, Exh. D at 82 and Exh. E at 149. Respondents correctly argued resort to legislative history here is inappropriate given the plain language of the statute and lack of ambiguity. (See *River Garden Retirement Home v. Franchise Tax Bd.* (2010) 186 Cal.App.4th 922, 942.) While the parties later agreed the court could rely on all of the evidence that had been submitted by the parties, the court nonetheless revised its decision to eliminate the discussion of legislative history. Given Respondents’ argument, there can be no claim the statute is unclear. “If there is no ambiguity, we presume the Legislature meant what is said and the plain meaning of the language controls.” (*Ibid.*)

¹⁷ In any event, as discussed *infra*, the court concludes the City did not adopt a substantially compliant housing element until after 600 Foothill submitted its complete Preliminary Application. Accordingly, even if the statutory bar of section 65588, subdivision (e)(4)(C)(iii) does not apply to the courts, the court still concludes the Builder’s Remedy applies to the Project.

¹⁸ As noted *supra* in footnote 16, Respondents agree there is no ambiguity in the statute.

completes its required rezoning. (*Sehulster Tunnels/Pre-Con v. Traylor Brothers, Inc.* (2003) 111 Cal.App.4th 1328, 1345, fn. 16 [failure to address point is “equivalent to a concession”].)

Respondents contend the “City could not rezone until it had a General Plan Housing Element under Section 65860(c), HCD did not promulgate draft [Affirmatively Further Fair Housing] requirements for the 6th Cycle housing element until April 23, 2020, and did not promulgate the final version until April 2021, only six months before the then-existing deadline (within SCAG) for submitting a 6th RHNA Cycle Housing Element.” (Opposition to CHDF 8: 11-15.)

Respondents’ evidence does not demonstrate actions or omissions of HCD or the Southern California Association of Governments (SCAG) precluded the City from adopting a substantially compliant housing element or the required rezoning. Director Koleda advises the final affirmatively further fair housing requirements were available by April 2021, and the City’s RHNA increased by only two dwelling units between March 22, 2021 and July 1, 2021. (Koleda Decl. ¶¶ 20, 36.) As persuasively argued by Intervenor, the City “had sufficient time to accommodate its RHNA allocation, or at the very least, the two additional dwelling units added between March and July 2021.” (Intervenor’s Reply 16, fn. 8.) Respondents also do not show, with persuasive evidence, the timing of HCD’s promulgation of affirmatively further fair housing requirements prevented the City from adopting a substantially compliant housing element.

Respondents also argue section 65588, subdivision (e)(4)(C)(iii)’s rezoning requirement “is illegal, unconstitutional, and unenforceable” because “[t]he Government Code specifically contemplates that rezoning will occur after adoption of an amendment to a General Plan, including Housing Elements,” (Opposition to Intervenor 12:19, 14:26-27.) Respondents’ statutory argument is not fully developed, lacks sufficient analysis of governing legal principles, and is unpersuasive.

Respondents wholly fail to explain how section 65588, subdivision (e)(4)(C)(iii) is “illegal” or “unconstitutional.” At most, Respondents assert section 65588, subdivision (e)(4)(C)(iii) conflicts with other statutes requiring consistency between the zoning ordinances of a general law city and its general plan, and the requirement such zoning ordinances be amended “within a reasonable time” to be consistent with a general plan that is amended. (Opposition to Intervenor 13:13-16 [citing § 65860].)

Respondents do not show a conflict between section 65588, subdivision (e)(4)(C)(iii) and section 65860 or any other statute. Contrary to Respondents’ assertion, a city could comply with both statutes. Thus, as argued by 600 Foothill, a city could update its zoning simultaneously with the adoption of its housing element. A city could also adopt a housing element that is provisionally certified by HCD and then subsequently complete the rezoning, which is what occurred here. While section 65588, subdivision (e)(4)(C)(iii) may subject a city to the Builder’s Remedy if it does not complete its rezoning at the same time adopts its housing element, Respondents do not show such possibility conflicts with section 65860 or that the

Legislature lacked the authority to impose such measures to encourage the development of housing.¹⁹

Because the City had not completed its required rezoning, the City's housing element was not in substantial compliance with the Housing Element Law when 600 Foothill filed the Preliminary Application in November 2022. As a result, the City Council prejudicially abused its discretion when it found the Builder's Remedy did not apply to the Project in its May 1, 2023 Decision.

Did the City's October 2022 Housing Element Substantially Comply with the Housing Element Law Without Consideration of Rezoning?

In its May 1, 2023 Decision, the City Council found "the 'builder's remedy' under the Housing Accountability Act does not apply and is not available for the project . . . because the City's Housing Element was, as of October 4, 2022, in substantial compliance with the Housing Element law." (AR 7167.) Petitioners contend the City Council's finding was a prejudicial abuse of discretion. The court agrees. The October 4, 2022 Housing Element was not in substantial compliance with the Housing Element Law.

Standard of Review—Substantial Compliance with Housing Element Law

"In an action to determine whether a housing element complied with the requirements of the Housing Element Law, the court's review 'shall extend to whether the housing element . . . *substantially complies* with the requirements' of the law. (§ 65587, subd. (b), italics added.) Courts have defined substantial compliance as '*actual* compliance in respect to the substance essential to every reasonable objective of the statute,' as distinguished from 'mere technical imperfections of form.' [Citations.] Such a review is limited to whether the housing element satisfies the statutory requirements, 'not to reach the merits of the element or to interfere with the exercise of the locality's discretion in making substantive determinations and conclusions about local housing issues, needs, and concerns.' " (*Martinez, supra*, 90 Cal.App.5th at 237.)

HCD is mandated by statute to determine whether a housing element substantially complies with the Housing Element Law. (See e.g., § 65585, subds. (i)-(j); Health & Saf. Code § 50459, subds. (a), (b).) Given HCD's statutory mandate and its expertise, HCD's determination of substantial compliance with the Housing Element Law, or lack thereof, is entitled to deference from the courts. (See *Hoffmaster v. City of San Diego* (1997) 55 Cal.App.4th 1098, 1113, fn. 13

¹⁹ Further, even assuming a conflict existed, Respondents do not explain why section 65860 would take precedence over section 65588, subdivision (e)(4)(C)(iii) under the specific circumstances presented here (i.e., a statutory bar to attaining substantial compliance with the Housing Element Law until rezoning is complete). (See *State Dept. of Public Health v. Superior Court* (2015) 60 Cal.4th 940, 960-961. ["If conflicting statutes cannot be reconciled, later enactments supersede earlier ones [citation], and more specific provisions take precedence over more general ones."])

[“We substantially rely on the Department of Housing and Community Development’s interpretation [. . .] regarding compliance with the housing element law”]; accord *Martinez, supra*, 90 Cal.App.5th at 243 [“courts generally will not depart from the HCD’s determination unless ‘it is clearly erroneous or unauthorized’ ”].)

However, “HCD’s housing element compliance determinations are not binding on courts.” (See Intervenor Reply 10:2; see also 600 Foothill Opening Brief 15:8-9.) The trial and appellate courts “‘independently ascertain as a question of law whether the housing element at issue substantially complies with the requirements of the Housing Element Law.’ . . .” (*Martinez, supra*, 90 Cal.App.5th at 237.)²⁰ Thus, to be clear (and as noted during the hearing) the court has not deferred to HCD concerning substantial compliance—the issue is properly subject to the court’s independent review as a question of law.

Affirmatively Further Fair Housing

As background, HCD found the City’s October 2022 Housing Element did not substantially comply with the City’s duties under the Housing Element Law to analyze how the housing element will affirmatively further fair housing. Specifically, HCD wrote:

While the element now analyzes census tracts and sites with a concentration of affordable units (p. D71-73), it should still discuss whether the distribution of sites improves or exacerbates conditions. This is critical as the sites to accommodate the lower-income households are only located along Foothill Boulevard near the 210 Freeway. If sites exacerbate conditions, the element should include programs to mitigate conditions (e.g., anti-displacement strategies) and promote inclusive communities. (AR 5263-5264.)

HCD also found “the element must include a complete assessment of fair housing. Based on the outcomes of that analysis, the element must add or modify programs.” (AR 5264.)

²⁰ While *Martinez* advises “ [t]he burden is on the challenger to demonstrate that the housing element . . . is inadequate” (*ibid.*), the HAA provides the City “bear[s] the burden of proof that its decision has conformed to all of the conditions specified in Section 65589.5.” (§ 65589.6; see also § 65587, subd. (d)(2) [city has burden of proof in action to compel compliance with requirements of section 65583, subd. (c)(1)-(3)].) The parties do not address the language in *Martinez* or how it should be applied, if at all, in this proceeding. The court concludes based on sections 65589.6 and 65587, subdivision (d)(2) the burden is on Respondents to show the City Council’s May 1, 2023 Decision complied with the HAA. Such a showing requires the City to demonstrate it attained substantial compliance with the Housing Element Law before 600 Foothill’s submitted its Preliminary Application and it was “deemed complete.” The court notes and clarifies, however, it would reach the same result herein even if the initial burden of proof is with Petitioners.

Housing elements must contain “an inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level”—the “sites inventory.” (§ 65583, subd. (a)(3).) The sites inventory must be accompanied by “an analysis of the relationship of the sites identified in the land inventory to the jurisdiction’s duty to affirmatively further fair housing.” (*Ibid.*) In addition, each updated housing element must include “a statement of the community’s goals, quantified objectives, and policies relative to affirmatively furthering fair housing” (§ 65583(b)(1)), and must commit to programs that will, among other things, “Affirmatively further fair housing in accordance with [Section 8899.50].” (§ 65583, subd. (c)(10).)²¹

Here, the October 2022 Housing Element discloses the sites identified by the City to accommodate affordable housing are all located near the Foothill Freeway. (AR 5130.) In this context, HCD found the October 2022 Housing Element lacked sufficient analysis of the relationship of the sites identified in the land inventory to the City’s duty to affirmatively further fair housing, i.e. whether the site inventory would improve or exacerbate fair housing conditions. (AR 5263-5264.)

Respondents do not cite to any specific analysis in the October 2022 Housing Element addressing the concern raised by HCD. (See Opposition to 600 Foothill 9:14 [citing AR 1741, 5203].) In fact, neither AR 1741 nor 5203 demonstrate the October 2022 Housing Element analyzed how the clustering of affordable housing near the Foothill Freeway would promote or exacerbate fair housing. While Respondents now explain in the context of *this proceeding* why the City clustered all affordable housing near the freeway (See Koleda Decl. ¶¶ 9-16),

²¹ Section 8899.50, subd. (b)(1) provides: “A public agency shall administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.” Compliance with the obligation is mandatory. (*Id.* at subd. (b)(2).) The statute defines “affirmatively further fair housing” as:

taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development. (*Id.* at subd. (a)(1).)

Respondents were required to include that analysis in the October 2022 Housing Element. (See § 65583, subds. (a)(3), (b)(1), and (c)(10).)²²

Respondents contend the “City undertook numerous outreach efforts to reach a variety of economic groups, including via two housing workshops with 18 different stakeholder organizations.” (Opposition to 600 Foothill 9:10-12 [citing Koleda Decl. ¶¶ 38-50 and AR 3896-3900, 4651].) Respondents do not cite any authority that outreach alone satisfies the City’s statutory obligations to include in its housing element “an **analysis** of the relationship of the sites identified in the land inventory to the jurisdiction’s duty to affirmatively further fair housing.” (§ 65583, subd. (a)(3) [emphasis added].) Exercising its independent judgment on the statutory question, the court concludes outreach alone does not substantially comply with the requirement—outreach does not constitute analysis.

The deficiencies in the October 2022 Housing Element as to the affirmatively further fair housing analysis are demonstrated by changes made by the City in the February 2023 Housing Element.²³ Specifically, the February 2023 Housing Element added analysis—“the sites to accommodate the lower and moderate-income households are concentrated primarily in the western end of the City along the Foothill Boulevard Corridor, and near the 210 Freeway.” (AR 6090.) The analysis recognized “adverse air quality conditions have the potential to be exacerbated” based on “close proximity to the freeway[.]” (AR 6090.) In addition, the revised February 2023 Housing Element committed to Program 24 to mitigate these impacts. (AR 6091; See also AR 5577-5578 [adding Program 24, “Mitigation for Housing in Proximity to Freeways” committing to building design measures for new residential development near the freeway].)

Respondents contend “those air quality mitigation measures were adopted in 2013 and the 2023 Housing Element merely added a heading regarding these existing measures.” (Opposition to 600 Foothill 9:7-8 [citing Koleda Decl. ¶ 33 and AR 4515].) Respondents cite AQ Policy 1.1.6 from its General Plan Air Quality Element, which states the policy to “Ensure that new developments implement air quality mitigation measures, such as ventilation systems, adequate buffers, and other pollution reduction measures and carbon sequestration sinks, especially those that are located near existing sensitive receptors.” (Koleda Decl. ¶ 33.)

²² During argument, Respondents suggested the material included in the February 23, 2023 housing element had previously been provided in the October 2022 Housing Element. While it is true Table D-12 can be found in both versions of the housing element (compare AR 6090 p. D22 with AR 5158 p. D22), the February 23, 2023 revisions to the October 2022 Housing Element (AR 6090-6092) included additional narrative material beyond repeating information from Los Angeles County’s Department of Public Health. Further, AR 5193-5204, identified by Respondents during the hearing as an analysis of how the clustering of affordable housing near the Foothill Freeway would promote or exacerbate fair housing within the October 2022 Housing Element, does not appear to address the issue. Finally, it does not appear Respondents cited any of this material in their briefs before the court in response to the claims raised by Petitioners. 600 Foothill objected to the argument as new during the hearing.

²³ See *supra* footnote 22.

While Program 24 and AQ Policy 1.1.6 have similarities, they are not the same. Program 24 identifies specific mitigation measures that apply to receptors near the freeways and is enforceable by HCD. (See § 65585, subd. (i) [requiring HCD to investigate a “failure to implement any program actions included in the housing element.”].) In contrast, AQ Policy 1.1.6 is a shorter and more general policy that is *not enforceable by HCD* as a housing element program. Contrary to Respondents’ assertion, the inclusion of Program 24 in the February 2023 Housing Element supports HCD’s findings that the October 2022 Housing Element lacked sufficient analysis of the City’s affirmatively further fair housing obligations.

Exercising its independent judgment on the issue, the court concludes the City’s October 2022 Housing Element did not substantially comply with the affirmatively further fair housing requirements in section 65583, subdivisions (a)(3), (b)(1), and (c)(10).²⁴

Nonvacant Sites Analysis

HCD found the October 2022 Housing Element’s analysis of nonvacant sites did not sufficiently analyze “redevelopment potential and evaluate the extent existing uses impede additional development.” (AR 5264.) HCD also found “as the element relies on nonvacant sites to accommodate 50 percent or more of the housing needs for lower-income households, the adoption resolution must make findings based on substantial evidence in a complete analysis that existing uses are not an impediment and will likely discontinue in the planning period.” (AR 5264.)

For nonvacant sites, the Housing Element Law provides “the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential.” (§ 65583.2, subd. (g)(1).) In addition, “when a city or county is relying on nonvacant sites . . . to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use . . . does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.” (§ 65583.2, subd. (g)(2).)

²⁴ In reaching this conclusion, the court has considered Respondents’ assertion the City undertook outreach efforts “in the face of ‘changing goal posts’ and what appeared to be intentional obstructive behavior by HCD.” (Opposition to 600 Foothill 9:16-21.) The court finds Respondents’ evidence does not prove substantial compliance with the affirmatively further fair housing requirements in section 65583 or an excuse from substantial compliance. (See e.g. Koleda Decl. ¶¶ 49-50.) The court has also considered CHDF’s arguments and evidence that the City discriminated on the basis of race and income when it selected sites for rezoning. The court further discusses CHDF’s claims of discrimination and bad faith *infra*.

The Court of Appeal explains “there are many types of sites the Legislature has either deemed infeasible to support lower income housing or that require additional evidence of their feasibility or by-right development approvals before being deemed adequate to accommodate such housing [including] . . . when a city relies on over 50 percent of the inventory to be accommodated on nonvacant sites The goal is not just to identify land, *but to pinpoint sites that are adequate and realistically available* for residential development targets for each income level.” (*Martinez, supra*, 90 Cal.App.5th at 244 [emphasis added].)

Here, more than 50 percent of the parcels included in the City’s site inventory to accommodate the lower income RHNA are nonvacant. (AR 4506.) Accordingly, the City is required to comply with section 65583.2, subdivision (g)(2). The site inventory in the October 2022 Housing Element does not show substantial compliance with section 65583.2, subdivision (g)(2). (See AR 5124-5129.) The criteria used to describe nearly all of the lower income nonvacant sites are some combination of “underutilized site,” “buildings that are older than 30 years,” “vacant lot or parking lot with minimal existing site improvements,” “property has not been reassessed” in some time, “antiquated commercial uses,” or “existing use retained and institution would add residential units.” (AR 5124-5129; see also AR 4601-4603 [discussing methodology].) While these factors may be relevant to and inform on the analysis of “additional development potential” required by section 65583.2, subdivision (g)(1), they do not sufficiently address in any substantive way whether the sites are “likely to be discontinued during the planning period,” as required by section 65583.2, subdivision (g)(2).

In the resolution adopting the October 2022 Housing Element, the City Council made the following finding:

Based on general development trends resulting from continuously rising land values, changes in desired land uses, the financial pressures placed on religious institutions that have been impacted by falling congregation numbers, aging structures, and underutilized properties, rising demand for housing, adjacency to public transportation and commercial services, and other factors/analysis as identified in the Section 9.4.1.3 Future Residential Development Potential and Section 9.4.1.4 Overview of Residential Development Potential and Realistic Capacity Assumptions by Zone of the Housing Element, the existing uses on the sites identified in the site inventory to accommodate the lower income RHNA are likely to be discontinued during the planning period, and therefore do not constitute an impediment to additional residential development during the period covered by the housing element. (AR 4506.)

The City Council’s generalized statement does not reference any specific evidence to support a finding the existing uses of nonvacant sites, which were identified to accommodate housing need for lower income households, are “likely to be discontinued during the planning period.” (§ 65583.2, subd. (g)(2).)

Further, Petitioners cite record evidence that the owners of several of the nonvacant sites included in the October 2022 site inventory, including certain sites identified for lower income households, informed the City they did not intend to redevelop the site or discontinue the existing use during the planning period. (See AR 5114-5116, 2222, 2238, 2206, 5126, 12812, 5233, 5123-5129, 6054-6061.)²⁵ Significantly, the City subsequently amended the housing element to disclose that some of the identified lower income category sites are “not currently available” and were included in the site inventory “as a buffer site because it may become available further along in the 6th cycle HE planning period.” (AR 6054-6061, 6098.) Such a change in characterization is a major substantive change in the site inventory and demonstrates the October 2022 Housing Element did not substantially comply with the Housing Element Law.

The court has also reviewed Director Koleda’s summary of changes to the October 2022 Housing Element. The court concludes, on the whole, Director Koleda’s summary is consistent with Petitioners’ arguments the October 2022 Housing Element was not substantially compliant and required significant changes. (See Koleda Decl. ¶ 56 and Exh. A.) As Intervenor argue, the substantial changes to the October 2022 Housing Element show the City did not substantially comply with section 65583.2, subdivision (g)(2) until *after* it adopted the October 2022 Housing Element.

Respondents assert the City “adopted a Site Inventory using both a data-driven model endorsed by HCD . . . and along with that gathered ‘substantial evidence’ by sending TWO mailings to each commercial and religious property owner in the City to determine potential inclusion on the Site Inventory.” (Opposition to 600 Foothill 11:9-12 [citing Koleda Decl. ¶¶ 29, 54-56].) However, Respondents do not dispute it included multiple nonvacant sites in the October 2022 Site Inventory for which the City lacked substantial evidence, *in October 2022*, that the existing uses were “likely to be discontinued during the planning period.” (§ 65583.2, subd. (g)(2).) Notably, Respondents do not cite any written communications with the nonvacant site owners, prior to the adoption of the October 2022 Housing Element, as evidence the uses were “likely to be discontinued during the planning period.” (§ 65583.2, subd. (g)(2).)

Respondents assert their methodology should be sufficient. During the hearing, they followed HCD guidance and should not be penalized for doing so. Respondents also argue for purposes of section 65583.2, subdivision (g)(2), they should not be required to knock on owners’ doors and undertake an active investigation for its sites inventory.

The court cannot find on this record the City followed HCD guidance on the section 65583.2, subdivision (g)(2) issue. While the City’s reliance on methodology alone may be consistent with

²⁵ For example, a representative of a restaurant (Panda Express) wrote “we have NO intention of discontinuing the current use of this property during the next eight-year housing planning period.” (AR 5115.) The owner of sites 86-89 on the October 2022 site inventory (identified in the lower income category) similarly informed the City that the premises are leased to retail store (Big Lots) under a 20-year lease with two 10-year extension options, and it had no intention of discontinuing the current use during the planning period. (AR 5116.)

HCD's section 65583.2, subdivision (g)(1) compliance guidance, that is not the case for section 65583.2, subdivision (g)(2).

As discussed during the hearing, HCD guidance specifies at Step 3 how to prepare a nonvacant sites inventory when a municipality has relied on "nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households." (Koleda Decl., Exh. Q p. 26.) Consistent with section 65583.2, subdivision (g)(2), the guidance makes clear:

If a housing element relies on nonvacant sites to accommodate 50 percent or more of its RHNA for lower income households, the nonvacant site's existing use is presumed to impede additional residential development, unless the housing element describes findings based on substantial evidence that the use will likely be discontinued during the planning period. (*Id.* at 27.)

"The goal is not just to identify land, but to pinpoint sites that are adequate and realistically available for residential development targets" (*Martinez, supra*, 90 Cal.App.5th at 244 [emphasis added].) Accordingly, HCD guidance also explains the "housing element should describe the findings and include a description of the substantial evidence they are based on," and a housing element "should describe the findings and include a description of the substantial evidence they are based on." (Koleda Decl., Exh. Q at 27.) (*Ibid.*)

HCD further advised substantial evidence "includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." (*Ibid.*) HCD provides specific examples of what constitutes substantial evidence "that an existing use will likely be discontinued in the current planning period" (*Ibid.*) Those examples include:

- [1] The lease for the existing use expires early within the planning period,
- [2] The building is dilapidated, and the structure is likely to be removed, or a demolition permit has been issued for the existing uses,
- [3] There is a development agreement that exists to develop the site within the planning period,
- [4] The entity operating the existing use has agreed to move to another location early enough within the planning period to allow residential development within the planning period.
- [5] The property owner provides a letter stating its intention to develop the property with residences during the planning period. (*Ibid.*)

Of the 21 nonvacant sites identified by the City as "sites that are adequate and realistically available for residential development targets" for lower income persons (*Martinez, supra*, 90 Cal.App.5th at 244), 19 percent or only four (sites 74, 91, 95 and 96) provide any site-specific evidence to support the City's inclusion of the site in its sites inventory. (AR 5124-5128.) For the four sites, the owner indicated some interest in redevelopment. (AR 5126, 5128.) The

remaining sites rely on the City's generalized methodology to meet their obligations under section 65583.2, subdivision (g)(2).

Respondents argue 600 Foothill's principal "actively manipulated" certain sites that were later deemed "buffer sites." (Opposition to 600 Foothill 10:22.) Respondents also blame deficiencies in their October 2022 site inventory on "dilatory guidance" of HCD and dilatory actions of SCAG. (Opposition to 600 Foothill 12:9-10.) Having considered the evidence cited by Respondents, the court finds Respondents' arguments unpersuasive. As discussed *infra* with Respondents' unclean hands defense, Respondents do not demonstrate 600 Foothill or its principals have engaged in any inequitable or wrongful conduct related to these proceedings, including the City's adoption of its housing element. Respondents also do not prove deficiencies in the site inventory of the October 2022 Housing Element resulted from actions or omissions of 600 Foothill, SCAG or HCD. Nor do Respondents cite any authority suggesting a city or county may be excused from substantial compliance with the Housing Element Law based on actions or omissions of SCAG, HCD or a project applicant.

Respondents contend the City was permitted "to rely upon letters with site owners and between itself and HCD not included specifically in its Housing Element" and the City "made reasonable inferences" from the information it received from site owners. (Opposition to 600 Foothill 12:15-19.) Respondents rely on *Martinez* to support their claims. (See *Martinez, supra*, 90 Cal.App.5th at 248.)

Martinez addressed the City of Clovis' nonvacant site analysis under section 65583.2, subdivision (g)(1); the Court did not analyze the heightened requirements of section 65583.2, subdivision (g)(2). (See *Martinez, supra*, 90 Cal.App.5th at 248-250.) While *Martinez* held the substantive material required by section 65583.2, subdivision (g)(1), need not appear in the Housing Element itself, the Court did not suggest nonvacant sites may be included in a site inventory if the agency lacks substantial evidence, or has not sufficiently investigated or analyzed, whether the sites are "likely to be discontinued during the planning period." (§ 65583.2, subdivision (g)(2).)

Here, Respondents have not cited substantial evidence to support the City's position multiple nonvacant sites listed in the October 2022 inventory could realistically be developed in a manner to satisfy the City's RHNA obligations. In addition, that Respondents made substantive revisions to the site inventory **after** October 2022 also supports a reasonable inference the City did not complete the analysis and attain the evidence required by section 65583.2, subdivision (g)(2), for many of the sites on its site inventory, **before** it adopted the October 2022 Housing Element. (Compare AR 5124-5129 with 6054-6061.)

Exercising its independent judgment, the court concludes the City's October 2022 Housing Element did not include a nonvacant site analysis that substantially complied with the Housing Element Law, including section 65583.2, subdivision (g)(2).

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Realistic Assessment of Development Capacity

The Housing Element Law requires that municipalities “specify for each site [in its inventory] the number of units that can realistically be accommodated on that site.” (§ 65583.2, subd. (c).) The law provides “the number of units calculated” for each site “shall be adjusted” to account for “the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.” (*Id.* at subd. (c)(2).)

CHDF contends the October 2022 Housing Element did not substantially comply with these statutory provisions because it failed to apply a “downward adjustment on the number of units projected on each site to account for, among other constraints, the City’s maximum floor-area ratio of 1.5 (AR 4607), its 80-percent maximum lot-coverage requirement (AR 4566), its 35-foot height limit (AR 4567), and significant parking requirements (AR 4572) for sites in mixed-use zones.” (CHDF Opening Brief 20:4-7.)

Respondents did not address or rebut CHDF’s argument. (*Sehulster Tunnels/Pre-Con v. Traylor Brothers, Inc.*, *supra*, 111 Cal.App.4th at 1345, fn. 16 [failure to address point is “equivalent to a concession”].) The court concludes the City’s October 2022 Housing Element did not substantially comply with Housing Element Law because the City failed to adjust the development capacity for each site based on the factors set forth in section 65583.2, subdivision (c)(2).²⁶

Government Code Section 65583.2, Subdivision (h)

CHDF argues fewer than 50 percent of the October 2022 Housing Element’s low-income sites were zoned exclusively for residential use, and the City did not include analysis showing it would “accommodate all of the very low and low-income housing need on sites designated for mixed use [and] allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.” (CHDF Opening Brief 20:21-23 [citing § 65583.2, subd. (h)].) CHDF supports its assertion with citations to the administrative record. (CHDF Opening Brief 21:1-4 [citing AR 5124-5129, 4607-4610]; see also AR 4612.) Based on the

²⁶ During argument, the court engaged CHDF and Respondents at length on this issue. While Respondents provide an explanation that their rezoning included the required adjustments, the court finds Respondents conceded the issue by not addressing it in their brief. (Compare CHDF Opening Brief 19:20-20:15 with Opposition to CHDF 10:10-11:20.) Respondents’ analysis of development constraints is not entirely clear and undeveloped in their brief. (See AR 4565-4570.)

evidence, CHDF argues the October 2022 Housing Element did not substantially comply with section 65583.2, subdivision (h).²⁷

Respondents do not squarely address CHDF's position, and they do not show, with citation to the administrative record, the October 2022 Housing Element substantially complied with section 65583.2, subdivision (h). (Opposition to CHDF 12:4-9.) Accordingly, the court concludes the October 2022 Housing Element did not substantially comply with the Housing Element Law for this reason as well.

Based on the foregoing, the court concludes the October 2022 Housing Element did not substantially comply with the Housing Element Law. Accordingly, the City Council prejudicially abused its discretion when it found in its May 1, 2023 Decision the Builder's Remedy did not apply to the Project.

Respondents' Defenses to the HAA Causes of Action

Respondents raise a defense of unclean hands to the HAA causes of action asserted by 600 Foothill. Respondents also raise defenses of ripeness, exhaustion of administrative remedies, and claim the petitions violate rules designed to prevent piecemeal litigation.

Unclean Hands

A party seeking equitable relief must have "clean hands" and inequitable conduct by the party seeking relief is a complete defense. (*Dickson, Carlson & Campillo v. Pole* (2000) 83 Cal.App.4th 436, 446; *Salas v. Sierra Chem. Co.* (2014) 59 Cal.4th 407, 432.) The plaintiff must "come into court with clean hands, and keep them clean," or the plaintiff "will be denied relief, regardless of the merits of his claim." (*Kendall-Jackson Winery, Ltd. v. Superior Court* (1999) 76 Cal.App.4th 970, 978.) For the doctrine to apply, "there must be a direct relationship between the misconduct and the claimed injuries." (*Mattco Forge, Inc. v. Arthur Young & Co.* (1997) 52 Cal.App.4th 820, 846, citation omitted.)

Respondents contend "the only reasonable inference to draw [from the opposition evidence] is that on the eve of final review and approval of the Housing Element containing the Site Inventory, 600 Foothill's principal was running around town attempting to manipulate owners to 'decline' inclusion on the inventory and derail the process." (Opposition to 600 Foothill 14:2-5.) The court has reviewed all of the evidence cited by Respondents. (Koleda Decl. ¶¶ 46-51; Hernandez Decl. ¶¶ 4, 5; AR 7081-7085, 5233; Sheridan Decl. Exh. DD.) Respondents' assertion

²⁷ Section 65583.2, subdivision (h) provides in pertinent part: "At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed use if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project."

that Garret Weyand, one of 600 Foothill's principals, engaged in "deliberate attempts to manipulate the Site Inventory" is speculative and not supported by the evidence. (Opposition to 600 Foothill 10:22.) To the contrary, the court finds Weyand's public advocacy in support of the Project is not evidence of inequitable conduct. (See Reply Weyand Decl.) Respondents have not demonstrated, by a preponderance of the evidence, 600 Foothill or any of its principals, including Weyand and Jon Curtis, engaged in inequitable conduct that has a direct relationship to any cause of action in 600 Foothill's petition. Respondents failed to meet their burden of demonstrating unclean hands and their entitlement to the defense.²⁸

Ripeness, Exhaustion, and Piecemeal Litigation

" 'A decision attains the requisite administrative finality when the agency has exhausted its jurisdiction and possesses 'no further power to reconsider or rehear the claim.' . . . Until a public agency makes a 'final' decision, the matter is not ripe for judicial review." (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1485.) Relatedly, "[t]he exhaustion doctrine precludes review of an intermediate or interlocutory action of an administrative agency. A party must proceed through the full administrative process 'to a final decision on the merits.' " (*Id.* at 1489.) There are exceptions to the exhaustion requirement, including "when the aggrieved party can positively state what the administrative agency's decision in his particular case would be." (*Edgren v. Regents of University of California* (1984) 158 Cal.App.3d 515, 520.)

Respondents do not show any lack of finality or any further administrative remedy to exhaust as to the May 1, 2023 Decision. The May 1, 2023 Decision of the City Council is final because there is no further avenue for administrative appeal. As discussed, the City disapproved (within the meaning of the HAA) the Project. Nothing in the HAA requires Petitioners to complete CEQA review before suing to enforce the HAA.

Respondents argue 600 Foothill did not sufficiently raise issues pursued in this proceeding, including that the City failed to rezone, the housing element does not meet its affirmatively further fair housing obligation, as well as the site inventory issues. The court concludes Petitioners sufficiently raised and preserved their contentions during the administrative proceedings. (See AR 6284-6286, 6307-6317.) Many of the issues in these petitions were also raised by HCD in letters to the City at the administrative level, including a notice of violation. (AR 7170-7175.)

Respondents argue "[n]o express 'disapproval' of the entire project occurred here" (Opposition to CHDF 16:25.) While not entirely clear, Respondents seemingly suggest 600 Foothill should *redesign the Project* to avoid reliance on the Builder's Remedy. Respondents do not develop an argument 600 Foothill has any legal obligation, under the circumstances here, to redesign the Project "as a standard, nonbuilder's remedy project." (AR 7103.). Respondents

²⁸ This defense only applies to 600 Foothill. Respondents do not develop any argument the HAA claims of CHDF or Intervenors are subject to the defense.

also do not show that any further administrative action, including appeal of the City's June 24, 2023 letter describing inconsistency between the Project and the City's general plan and zoning ordinances (see AR 7176), could remedy the harm suffered by 600 Foothill when the City Council determined the Builder's Remedy does not apply to the Project.

Moreover, Petitioners can positively state what the City's decision is with respect to 600 Foothill's application to develop the Builder's Remedy Project. In its May 1, 2023 Decision, the City Council made clear any required land use approvals or entitlements would not be issued for the Project as a Builder's Remedy project. Based on its review of the administrative record and the parties' declarations, the court finds no reasonable possibility Respondents, including the City Council, will change their position and process 600 Foothill's Project as a Builder's Remedy under the HAA. Accordingly, even if some additional appeal or administrative process were available, the futility exception to exhaustion applies under these facts. (See, e.g., *Felkay v. City of Santa Barbara* (2021) 62 Cal.App.5th 30, 40-41 [futility exception, which is a question of fact, applied where city "made plain" it would not permit the proposed development]; *Ogo Associates v. City of Torrance* (1974) 37 Cal.App.3d 830, 832-34 [futility exception applied where it was "inconceivable the city council would grant a variance for the very project whose prospective existence brought about the enactment of the rezoning" that necessitated the variance in the first place].)

Respondents do not demonstrate (1) the HAA claims in the petitions are unripe, (2) Petitioners failed to exhaust their administrative remedies, or (3) Petitioners have violated rules designed to prevent piecemeal litigation. Further, even if Petitioners have additional administrative remedies (such as an appeal of the June 24, 2023 inconsistency letter), the court finds exhaustion of such remedies is futile under the circumstances presented here.

CHDF's Claims of Bad Faith and Discrimination Based on Race and Income

CHDF contends:

La Cañada Flintridge officials *clearly* acquiesced to the biases and prejudices of city residents when they revised the draft Housing Element's sites inventory and rezoning program to eliminate multiple 'low-income' sites south of Foothill Boulevard. This was a blatant violation of California and Federal fair housing laws alike. (See Gov. Code, § 65008, subd. (b)(1)(C) . . . ; Cal. Code Regs, tit. 2, § 12161, subd. (c) . . . ; *Mhany Management, Inc., supra*, 819 F.3d 581) (CHDF Opening Brief 17:13-21.)

As acknowledged in reply, CHDF did not plead a cause of action in its petition alleging the City violated the Fair Housing Act or state or federal discrimination laws. (CHDF Reply 10:15-20.) CHDF also did not move to amend its petition or request leave to amend its petition. (See *Simmons v. Ware* (2013) 213 Cal.App.4th 1035, 1048. ["The pleadings are supposed to define the issues to be tried."])

In reply, CHDF argues the “City’s discriminatory site-selection practices demonstrates the City did not substantially comply with the Housing Element Law’s requirements to affirmatively further fair housing.” (CHDF Reply 10:18-19.) However, CHDF failed to plead that claim in its petition. (See CHDF Reply 10:20-21 [citing CHDF Pet. ¶¶ 22, 26, 29-30 (generalized allegations the City “did not affirmatively further fair housing or provide an assessment of fair housing”)].)

On the merits of CHDF’s claim, even if the affirmatively further fair housing allegations in the petition are interpreted to encompass CHDF’s arguments about race and income discrimination (a difficult task), the court finds Respondents’ opposition persuasive. (Opposition to CHDF 13:5-15:21.) There is insufficient evidence the City Council “acquiesced” to or acted based on public comments at the August and September 2022 public hearings highlighted in CHDF’s briefs. (See e.g., AR 2602-2603 [“different value system and much more high crime . . . the value system is different than people that move here”], 3491-3494 [similar comments from same individual at AR 2602-2603], 3539-3541, 3543-3545 [“dust off my shotgun” “likelihood of being some bad apples”], 3493 [additional similar comments from commenter at AR 2602-2603 and AR 3491-3494], 5107-5110 [crime and will become dangerous community], 5112 [“fear poor or homeless people will move into La Canada and bring crime”].)

While some of the public comments were quite unfortunate, CHDF cites statements of councilmembers out of context and does not show those councilmembers “agreed” with the public comments highlighted by Petitioners. (CHDF Opening Brief 10:13-11:6.) Even if the councilmembers could have stated their disagreement with certain public comments, but did not, there is insufficient evidence to support an inference the City Council took any action on the housing element based on the unfortunate public comments and discrimination.²⁹

Other Contentions Related to the HAA Causes of Action

Several other contentions are not necessary to the court’s ruling on the HAA claims. For completeness, the court briefly addresses them.

The court agrees with Intervenor that the City did not have authority under the HAA or Housing Element Law to backdate its housing element and “self-certify” or declare its housing element to be in substantial compliance with state law as of October 2022. (Intervenor Opening Brief 14:3-15:24.) Respondents appear to concede the point. (See Opposition to Intervenor 19:18-21:7 [asserting City did not back date or self-certify].)

²⁹ During argument, 600 Foothill provided a series of acts undertaken by Respondents that it believed demonstrated bad faith. Many of those acts, however, flowed from the City’s belief it properly adopted the October 2022 Housing Element or the City’s violation of the Permit Streamlining Act (PSA) discussed *infra*. Based on all of the evidence before the court, the evidence is insufficient to establish the City acted with bad faith and “will continue to use all means to obstruct” as suggested by CHDF during argument.

As argued by 600 Foothill, when HCD found the October 2022 Housing Element did not substantially comply with the law, section 65585, subdivision (f) required City to take “one” of the following actions: “(1) Change the draft element or draft amendment to substantially comply with this article; [or] (2) Adopt the draft element or draft amendment without changes [, but with] written findings which explain the reasons the legislative body believes that the draft . . . substantially complies with this article despite the findings of the department.” (600 Foothill Opening Brief 14:16-19.) The court agrees the “City unlawfully blended these approaches by making some changes in response to HCD’s comments, adopting the February 2023 Housing Element with written findings explaining why the October 2022 Housing Element was sufficient, and then resubmitting its revised draft to HCD.” (600 Foothill Opening Brief 14:19-22.)

If the City believed its October 2022 Housing Element substantially complied with the Housing Element Law, it should have taken the action set forth in section 65585, subdivision (f)(2). Thereafter, the City could have sued for a judicial declaration that its October 2022 Housing Element substantially complied with state law. The City did not do so here.

The court finds 600 Foothill’s arguments based on section 65589.5, subdivisions (j) and (o) are not ripe at this time. Once ripe, the claims are subject to exhaustion. (See 600 Foothill Opening Brief 9:12-10:21; Pet. ¶¶ 134-162.) Upon the remand ordered here, the City is required to process the application as a Builder’s Remedy project and in accordance with the HAA, including sections 65589.5, subdivisions (j) and (o). Thus, it is premature to adjudicate today whether the City has complied with those provisions of the HAA.

Relatedly, since the court concludes the City is required by law to process the application pursuant to the Builder’s Remedy provision of the HAA, the court need not address the financial infeasibility of a redesigned project. (600 Foothill Opening Brief 8:21-9:3 and 10, fn. 6.)

Summary of HAA Causes of Action and Scope of Writ Relief

The court finds the City Council prejudicially abused its discretion with its finding in its May 1, 2023 Decision that the Builder’s Remedy does not apply to the Project. As a remedy, the court grants 600 Foothill’s petition and will issue a writ directing Respondents to set aside the May 1, 2023 City Council decision finding 600 Foothill’s Project does not qualify as Builder’s Remedy and compelling the City to process the application in accordance with the HAA and state law. That remedy is consistent with section 65589.5, subdivision (k)(1)(A)(ii) of the HAA (compliance required in 60 days) and Code of Civil Procedure section 1094.5, subdivision (f).

CHDF argues the court should order the Project “approved” due to the City’s alleged bad faith and unlawful discrimination. (CHDF Opening Brief 23:18-24:24.) For the reasons discussed, the court finds evidence the City Council “acquiesced” to or acted based on the public comments from the August and September 2022 public hearings highlighted in CHDF’s briefs insufficient. (See e.g., AR 2602-2603, 3491-3494, 3539-3541, 3543-3545, 3493, 5107-5110, 5112.) CHDF has

not met its burden of demonstrating Respondents acted in bad faith in connection with those public comments.

CHDF also argues “[w]hen 600 Foothill subsequently proposed a project under the HAA’s builder’s remedy, the City Council concocted a bizarre scheme to evade judicial review of their decision to disapprove that project, . . .” (CHDF Opening Brief 24:15-18.) 600 Foothill contends the court should order Respondents to approve the Project on similar grounds. (600 Foothill Reply 18:13-19:8.) While the court finds the City prejudicially abused its discretion with its May 1, 2023 Decision finding the Builder’s Remedy inapplicable to the Project, the court does not find sufficient evidence to conclude the City Council acted in bad faith when it made its legally incorrect decision.

Further, even if it could be argued the City Council lacked a good faith reason to find the Project did not qualify as a Builder’s Remedy, Petitioners do not show it would be equitable for the court to compel the City to approve the Project. Among other reasons, CEQA review is specifically preserved by the HAA. (See § 65589.5, subds. (e) and (o)(6); *Schellinger, supra*, 179 Cal.App.4th at 1245.) In the exercise of the court’s discretion, the court finds a writ compelling Respondents to approve the Project, without CEQA review, would not be an equitable or proportionate remedy for the violations of the HAA at issue. Respondents should be permitted on remand to process 600 Foothill’s application, as a Builder’s Remedy, in conformance with state law, including the HAA and CEQA.

Based on the foregoing, the HAA causes of action are GRANTED IN PART.

600 Foothill’s First Cause of Action – Violation of Housing Element Law

600 Foothill prays for a writ of mandate “compelling Respondents to adopt a revised housing element pursuant to Government Code Section 65754. 2” and “to complete the required rezoning consistent with an HCD-approved housing element.” (Pet. Prayer ¶¶ 1-2.) 600 Foothill filed its petition on July 21, 2023. The petition alleged the City had not substantially complied with the Housing Element Law at that time. (Pet. ¶ 91.)

As discussed, the City completed the required rezoning in September through November 2023, after 600 Foothill filed its petition. On November 17, 2023, HCD sent a letter to the City finding the City had “completed actions to address requirements described in HCD’s April 24, 2023 review letter” and was in substantial compliance with the Housing Element Law. (See Coy Decl. ¶ 12, Exh. D.)

600 Foothill has not pleaded in the petition, or argued in its briefing, there is any deficiency in the February 2023 Housing Element that HCD found to be substantially compliant with the Housing Element Law in November 2023, after the City completed its rezoning. Accordingly, the first cause of action is moot. (*Wilson & Wilson v. City Council of Redwood City* (2011) 191 Cal.App.4th 1559, 1573 [“A case is considered moot when ‘the question addressed was at one time a live issue in the case,’ but has been deprived of life ‘because of events occurring after

the judicial process was initiated.’ . . . ‘The pivotal question in determining if a case is moot is therefore whether the court can grant the plaintiff any effectual relief.’”])

600 Foothill’s first cause of action is DENIED as moot.

600 Foothill’s Second Cause of Action – Affirmatively Furthering Fair Housing

600 Foothill prays for a writ “compelling Respondents to comply with their statutory obligation to Affirmatively Further Fair Housing.” (Pet. Prayer ¶ 9.) 600 Foothill’s writ briefing, however, only challenges the City’s compliance with affirmatively further fair housing obligations as to the October 2022 Housing Element and required rezoning. (See 600 Foothill Opening Brief 21:10-12; Pet. ¶¶ 106-108.) 600 Foothill does not develop any argument the City’s February 2023 housing element, after completion of the required rezoning, does not comply with the City’s affirmatively further fair housing obligations. Accordingly, the second cause of action is moot. (*Wilson & Wilson, supra*, 191 Cal.App.4th at 1573.) Alternatively, to the extent 600 Foothill contends in the petition the City remains out of compliance with its affirmatively further fair housing obligations (see Pet. ¶ 105), 600 Foothill has not sufficiently supported its position with evidence and legal analysis.

600 Foothill’s second cause of action is DENIED as moot.

600 Foothill’s Sixth Cause of Action – Violation of the PSA

600 Foothill contends the City violated the PSA in several ways with its incompleteness determinations and the City Council’s May 1, 2023 Decision. (600 Foothill Opening Brief 19:14-20-25; Pet. ¶¶ 163-175.) 600 Foothill prays for a writ “compelling Respondents review and process applications pursuant to the Permit Streamlining Act’s provisions, including refraining from refusing to process development applications based on erroneous assertions of incompleteness.” (Pet. Prayer ¶ 4.)

600 Foothill has demonstrated Respondents violated the PSA in at least two respects. Specifically, section 65943, subdivision (a) provides “[i]f the application is determined to be incomplete, the lead agency shall provide the applicant with **an exhaustive list** of items that were not complete.” (Emphasis added.) In addition, the list “**shall** be limited to those items actually required on the lead agency’s submittal requirement checklist.” (*Ibid.* [Emphasis added].) “**In any subsequent review** of the application determined to be incomplete, the local agency shall not request the applicant to provide any new information **that was not stated in the initial list of items that were not complete.**” (*Ibid.* [Emphasis added].)

While neither party has cited any published authority interpreting these provisions, the plain language of section 65943, subdivision (a) is clear. The PSA required the City to provide 600 Foothill with an “exhaustive list” of incomplete items in its First Incompleteness Determination; incomplete items are limited to items on the City’s “submittal requirement checklist”; and the City could not later request new information it omitted from the initial list. Respondents

provide no alternative interpretation of the statutory language. (Opposition to 600 Foothill 20:5-21:8.) Director Koleda reports “it is a **common practice** for the City to provide information to a developer in the early stages of the application review regarding ways that the development does not meet applicable development standards.” (Koleda Decl. ¶ 42 [emphasis added].) Even if true, the City’s common practice does not supersede the statutory requirements of the PSA.

In violation of these provisions of the PSA, the Second Incompleteness Determination found the Project was inconsistent with City’s zoning and general plan standards because the Project did not qualify as a Builder’s Remedy. (AR 6280-6281.) However, that issue was not raised in the First Incomplete Determination and was also not included on the City’s submittal requirement checklist. (See AR 5276-5279, 6280-6281; see also Koleda Decl. ¶ 42.) Accordingly, the City violated section 65943, subdivision (a).³⁰

Respondents suggest 600 Foothill was not prejudiced by the violations of the PSA because the application was deemed complete on May 26, 2023. (Oppo. to 600 Foothill 22:19-21 [citing AR 7169].) Respondents do not cite any authority for the proposition that PSA violations are excused by a purported lack of prejudice. Moreover, 600 Foothill was prejudiced when Respondents made a legally unauthorized incompleteness determination.

600 Foothill does not cite a statute or published authority suggesting the appropriate remedy for these types of violations of the PSA is an order compelling the City to approve the project. As discussed for the HAA causes of action, the court will grant a writ directing Respondents to set aside the City Council’s May 1, 2023 Decision and process 600 Foothill’s application in accordance with the HAA. The violations of the PSA proven by 600 Foothill provide additional support for that remedy. 600 Foothill does not demonstrate any additional relief is justified under the PSA.

To the extent 600 Foothill prays for a writ directing the City to comply with the PSA in the future or with respect to development applications of non-parties (see Prayer ¶ 4), 600 Foothill

³⁰ 600 Foothill also contends “Respondents’ Second Incompleteness Determination was issued on March 1, 2023 (AR 6280-81) more than 30 days after Petitioner submitted the Project application on January 13, 2023.” (600 Foothill Opening Brief 20:22-24.) 600 Foothill did not pay the fees for the application until January 31, 2023, which was less 30 days before March 1, 2023. (AR 7161-7162.) When submitting its application, the City advised 600 Foothill “the 30-day time limit to determine completeness of a development application per Government Code Section 65943 does not begin until all invoiced fees have been paid.” (AR 7161-7162) Section 65943 is ambiguous as to whether the 30-day period begins running when the application is submitted/received or when the fees are paid. While 600 Foothill has a colorable argument the 30-day period began when City “received” the application on January 13, 2023, Respondents’ alternative interpretation is also reasonable. 600 Foothill has not submitted any legislative history to support its interpretation. Accordingly, the court is not persuaded 600 Foothill met its burden as to its complaint about timeliness under the PSA.

does not sufficiently support such a prayer in its briefing. Specifically, 600 Foothill does not explain how it has standing to enforce the PSA on behalf of non-parties, or how any claim with respect to the City's future compliance with the PSA is ripe for judicial review.

600 Foothill's sixth cause of action is GRANTED IN PART. The court finds the City violated the PSA in the manner it processed 600 Foothill's application. As a remedy, the May 1, 2023 Decision finding that the application was incomplete because the Project does not qualify as a Builder's Remedy must be set aside. In all others respect, the sixth cause of action is DENIED.

600 Foothill's Seventh and Eighth Causes of Action – State Density Bonus Law and Subdivision Map Act

600 Foothill argues the City Council's May 1, 2023 Decision effectively denied 600 Foothill's requests for a density bonus and concessions or incentives under the State Density Bonus Law, and "necessarily constituted a disapproval" under the Subdivision Map Act. (600 Foothill Opening Brief 21:25-22:12; see Pet. ¶¶ 176-197.)

The court's analysis of the seventh and eighth causes of action is similar to that set forth earlier with 600 Foothill's claims under section 65589.5, subdivisions (j) and (o). Upon remand, the City will be required to process 600 Foothill's application as a Builder's Remedy and in accordance with the HAA and other state housing laws, including the State Density Bonus Law and the Subdivision Map Act. It is premature at this time to adjudicate whether the City has complied with those statutes. 600 Foothill has been informed that the City's review process under the State Density Bonus Law and the Subdivision Map Act is ongoing. (See AR 7176-7178, 7169.) Accordingly, 600 Foothill does not prove its seventh and eighth causes of action are ripe for judicial review or that the issues have been exhausted. Further, to the extent 600 Foothill seeks a writ directing the City to "approve" the Project in full, it does not demonstrate it is entitled to that remedy, as discussed earlier.

600 Foothill's seventh and eighth causes of action are DENIED.

600 Foothill's Ninth Cause of Action is Stayed

Respondents specially moved to strike 600 Foothill's ninth cause of action (right to fair hearing) pursuant to Code of Civil Procedure section 425.16. The court denied the motion, and Respondents appealed. Given the appeal, the ninth cause of action is stayed. (See Code Civ. Proc., §§ 425.16, subd. (i), 916, subd. (a); *Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 195.)³¹

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³¹ Respondents conceded at the time the court heard the special motion to strike that an appeal would stay only the ninth cause of action.

Causes of Action for Declaratory Relief by All Petitioners

Issuance of a declaratory judgment is discretionary. (Code Civ. Proc., § 1060.) Further, “it is settled that declaratory relief is not an appropriate method for judicial review of administrative decisions.” (*Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 127; accord *Sheetz v. County of El Dorado* (2022) 84 Cal.App.5th 394, 414 [“administrative mandamus is ‘the proper and sole remedy’ to challenge a local agency’s application of the law (e.g., application of a zoning ordinance to a particular property)”].)

Although the petitions include various requests for declaratory relief, all such requests pertain to the validity of City Council’s May 1, 2023 Decision, including the City Council’s determination the October 2022 Housing Element substantially complied with state law and the Project did not qualify as a Builder’s Remedy. None of the Petitioners have developed a legal argument that declaratory relief is an appropriate, *or necessary*, form of judicial review of the administrative decisions at issue. Accordingly, Petitioners have not demonstrated they are entitled to declaratory relief.

600 Foothill’s eleventh cause of action for declaratory relief, CHDF’s second cause of action for declaratory relief, and Intervenor’s second cause of action for declaratory relief are DENIED as unnecessary given the court’s decision on the HAA causes of action.

Retention of Jurisdiction

The court found Respondents, “in violation of subdivision (d), disapproved a housing development project . . . without making findings supported by a preponderance of the evidence.”³² (§ 65589.5, subd. (k)(1)(A)(i).) Accordingly, the court is required to “retain jurisdiction to ensure that its . . . judgment is carried out . . .” (*Id.* at subd. (k)(1)(A)(ii).)

CONCLUSION

The petitions of 600 Foothill, CHDF, and Intervenor to enforce the HAA are GRANTED IN PART. The court finds the City Council prejudicially abused its discretion when it found in its May 1, 2023 Decision that the Builder’s Remedy does not apply to the Project. The court will grant a writ directing Respondents to set aside the City Council’s decision, dated May 1, 2023, finding 600 Foothill’s application does not qualify as a Builder’s Remedy and to process the application in accordance with the HAA and state law. The HAA claims are denied in all other respects. 600 Foothill’s first, second, seventh, and eighth causes of action are DENIED.

³² The City’s finding its October 2022 Housing Element was in substantial compliance with the Housing Element Law was not supported by substantial evidence. As discussed *supra*, HCD had advised the City why the October 2022 Housing Element was not in substantial compliance. Moreover, Director Koleda on January 11, 12 and February 9, 2023 appeared to accept HCD’s evaluation that the City could not achieve substantial compliance with the Housing Element Law without “additional changes” and “clarifications.” (AR 12894, 13011.)

600 Foothill's sixth cause of action is GRANTED IN PART. The court finds the City violated the PSA in the manner it processed 600 Foothill's application and, as a remedy, the May 1, 2023 Decision finding the application was incomplete because the Project does not qualify as a Builder's Remedy must be set aside. In all others respect, the sixth cause of action is DENIED.

600 Foothill's ninth cause of action is stayed pending Respondents' appeal of denial of its anti-SLAPP motion. (See Code Civ. Proc. §§ 425.16, subd. (i), 916, subd. (a).)

600 Foothill's eleventh cause of action for declaratory relief, CHDF's second cause of action for declaratory relief, and Intervenor's second cause of action for declaratory relief are DENIED.

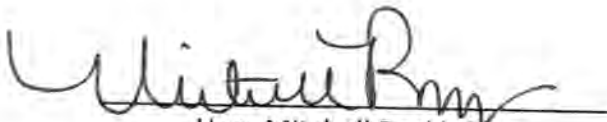
As to Case No. 23STCP02614 brought by CDHF, the court will enter judgment on the first cause of action in favor of CDHF and Intervenor on the first cause of action.

As to Case No. 23STPC02575 brought by 600 Foothill, the court does not enter judgment at this time given the pending appeal on 600 Foothill's ninth cause of action and Respondents' special motion to strike. The matter is continued to December 4, 2024 at 9:30 a.m. for a hearing on the status of Respondents' appeal.

The court will retain jurisdiction over this matter (in both cases) as required by section 65589.5, subd. (k)(1)(A)(ii).

IT IS SO ORDERED.

March 4, 2024


Hon. Mitchell Beckloff
Judge of the Superior Court

Russ Khouri
40 Wakonda
Dove Canyon, CA. 92679-3709

September 22, 2025
City Council / Planning Agency Meeting Item 5.5.2

Dear Members of the City Council:

Please allow this letter to express my opposition to this proposed development for the following reasons.

1. **No. of Low-Income Units.** The developer is holding his cards on the original “Builder’s Remedy” program. The Original Builder’s remedy mandated that a developer had to offer at least 20% of the units to lower-income households, so why is he offering only 10% of the units now?
2. **Parking.** The project is providing (250) parking spaces, or 1.38 spaces per unit. In accordance with the City parking standards, Table 9-44.A, 1 BR Units require 1.7 spaces per unit, 2 BR Units require 2.2 spaces and 3 BR Units require 2.7 spaces per unit.

This development has:

(16) Studio Units x 1.7 = 27 Spaces

(93) 1 BR Units x 1.7 = 158 Spaces

(71) 2 BR Units x 2.2 = 156 Spaces

Required Parking = 341 Spaces vs. 250 Spaces = <91> Parking Spaces Short

Is the City offering this as a concession to the Developer? This is a project for seniors 55+, who still drive and will have vehicles to park.

3. **Architectural Massing**

This project is grossly out of scale for this small site. A 61’+ tall building next to the remaining one-story buildings on the site. Doesn’t the city have any say in the design of proposed projects, even under Builder’s Remedy?

4. **City of Laguna Hills Income**

Like other cities, the major source of income comes from the commercial tenants within a city. Approval of this project, would reduce that income greatly as this project reduces commercial leased space from 43,200 SF to just 7,420 SF.