REGULAR PLANNING COMMISSION MEETING AGENDA

City Hall - Council Chambers
4381 Broadway, Ste. 201, American Canyon
March 23, 2023
6:30 PM

Chair: Crystal Mallare
Vice Chair: Brando Cruz
Commissioners: Eric Altman, Andrew Goff, Davet Mohammed

The Planning Commission and other public meetings will be conducted in person at City Hall, 4381 Broadway, Suite 201. This meeting is also available via Zoom Teleconferencing as a convenience for public participation. Should technical issues with Zoom occur, please select another viewing option, such as a live broadcast to residents on Napa Valley TV, on our website here and on YouTube here.

PUBLIC PARTICIPATION

Oral comments, during the meeting: Oral comments can be made in person during Open and Closed Session. A Zoom Webinar has been established for public comments made via zoom, during Open Session only. To give your public comment via zoom, connect via the below Zoom link and use the "raise your hand" tool, or call into the zoom meeting at 408-638-0968 and press *9 to "raise your hand" when the item is called. To avoid confusion, all hands raised outside of Public Comment periods will be lowered.

Written comments, via eComments: Please submit written comments through the eComments link, located on the Meetings & Agendas page of our website here. Comments will be available to council members in real time. To allow for review of comments, eComments will close at 3:00 pm on the day of the meeting. All comments received will be posted online and become part of the meeting record.

Zoom Meeting Link: Click here.
Webinar ID: 847 8832 3786 Passcode: 442253

The above-identified measures exceed all legal requirements for participation in public comment, including those imposed by the Ralph M. Brown Act. For more information, please call the Office of the City Clerk at (707) 647-4369 or email cityclerk@cityofamericancanyon.org.

AGENDA MATERIALS: Planning Commission agenda materials are published 72 hours prior to the meeting and are available to the public via the City's website at www.cityofamericancanyon.org.

AMERICANS WITH DISABILITIES ACT: The Planning Commission will provide materials in appropriate alternative formats to comply with the Americans with Disabilities Act. Please send a written request to City Clerk at 4381 Broadway, Suite 201, American Canyon, CA 94503 or by email to cityclerk@cityofamericancanyon.org. Include your name, address, phone number and brief description of the requested materials, as well as your preferred alternative format or auxiliary aid, at least three calendar days before the meeting.

6:30 P.M. REGULAR MEETING

CALL TO ORDER

PLEDGE

ROLL CALL

PUBLIC COMMENT

*This time is reserved for members of the public to address the Planning Commission on items of interest that are not on the Agenda and are within the subject matter jurisdiction of the Planning Commission. It is recommended that speakers limit their comments to 3 minutes each and it is requested that no comments be made during this period on items on the Agenda. Members of the public wishing to address the Planning Commission on items on the Agenda should comment via email prior to the start of the meeting, or to verbally comment on the item during the meeting, click the "raise your hand" button if joining by computer, or press *9 if joining by phone, when the item is called. The Planning Commission is prohibited by law from taking any action on matters discussed that are not on the Agenda, and no adverse conclusions should be drawn if the Planning Commission does not respond to public comment at this time. Speakers are asked to please speak clearly, and provide their name. Any handouts for distribution to the Planning Commission must be emailed by 3:00 p.m. on meeting day.*

AGENDA CHANGES

CONSENT CALENDAR

1. Minutes of February 23, 2023
Recommendation: Approve the Minutes of February 23, 2023

PUBLIC HEARINGS

2. Chicken Guy Restaurant Conditional Use Permit
Recommendation: Approve a Conditional Use Permit for development of a 2,818 square feet quick-serve restaurant with drive-thru lane at 200 American Canyon Road, APN 059-110-056 (File No. PL22-0021)

3. 6th Cycle Housing Element Municipal Code and General Plan Amendment Implementation
Recommendation: Adopt a Resolution of the Planning Commission of the City of American Canyon recommending the City Council of the City of American Canyon amend the American Canyon Municipal Code Chapter 19.38 "Emergency Shelters"; Chapter 19.39 "Accessory Dwelling Units"; and delete General Plan Goal 1B Growth Control Policies consistent with current State Law.

MANAGEMENT AND STAFF ORAL REPORTS

4. Active Planning Projects
Recommendation: Revue Active Planning Projects List

ADJOURNMENT

CERTIFICATION

I, Nicolle Hall, Administrative Technician for the City of American Canyon, do hereby declare that the foregoing Agenda of the Planning Commission was posted in compliance with the Brown Act prior to the meeting date.

_____

Nicolle Hall, Administrative Technician

CITY OF AMERICAN CANYON
PLANNING COMMISSION MEETING

ACTION MINUTES
February 23, 2023

6:30 P.M. REGULAR MEETING

CALL TO ORDER
The meeting was called to order at 6:30 p.m.

PLEDGE
The Pledge of Allegiance was recited.

ROLL CALL
Present: Commissioners Eric Altman, Andrew Goff, Davet Mohammed, Vice Chair Brando Cruz, Chair Crystal Mallare
Absent: None

PUBLIC COMMENT
Chair Mallare opened Public Comment
Speakers None
Written comment: None
Chair Mallare closed Public Comment

AGENDA CHANGES
There were no changes.

CONSENT CALENDAR

1. Minutes of January 26, 2023
Action: Approve the Minutes of January 26, 2023

2. Minutes of Special Joint City Council Planning Commission Meeting of January 31, 2023
Action: Approve the Minutes of January 31, 2023, Special Joint City Council Planning Commission Meeting

Action: Motion to approve the consent calendar made by Commissioner Eric Altman, seconded by Vice Chair Brando Cruz and CARRIED by a roll call vote.

Ayes: Commissioners Eric Altman, Andrew Goff, Davet Mohammed, Vice Chair Brando Cruz, Chair Crystal Mallare
Nays: None

Abstain: None
Excused: None

PUBLIC HEARINGS

3. Chicken Guy Restaurant Conditional Use Permit

Action: Approve a Conditional Use Permit for development of a 2,818 square feet quick-serve restaurant with drive-thru lane at 200 American Canyon Road, APN 059-110-056 (File No. PL22-0021)

Senior Planner William He shared a PowerPoint presentation. Mr. He informed the Commission that after the Planning Commission Agenda was published on February 17th the applicant sent a letter requesting a 30-day continuance in order to allow their team more time to review the staff report and conditions of approval.

Commissioners discussed the item.

Chair Mallare opened the public hearing.

Speakers: Yvonne Baginski was called to speak, Lori Stelling was called to speak, Tammy Wong was called to speak, Linda Brown was called to speak, Marilyn Magnuson, co-chair of Napa Climate Now was called to speak

Written Comments:
Celeste Mirassou
Lori Stelling

Chair Mallare closed the Public Hearing

Action: Motion to continue the Chicken Guy Restaurant Conditional Use Permit to next regular Planning Commission meeting made by Vice Chair Brando Cruz, seconded by Commissioner Andrew Goff and CARRIED by a roll call vote.

Ayes: Commissioners Eric Altman, Andrew Goff, Davet Mohammed, Vice Chair Brando Cruz, Chair Crystal Mallare
Nays: None
Abstain: None
Excused: None

4. Housing Element Annual Progress Report 2022
Action: Receive and file 2022 Calendar Year Housing Element Annual Progress Report
Senior Planner William

Senior Planner William He shared a PowerPoint presentation.

Commissioners discussed the item.

Chair Mallare opened Public Comment
Speakers None
Written comment: None
Chair Mallare closed Public Comment

Action: The 2022 Calendar Year Housing Element Annual Progress Report was received and filed.

MANAGEMENT AND STAFF ORAL REPORTS

5. Active Planning Projects
Action: Review Active Planning Projects List

Community Development Director reported on active panning projects including the townhomes at Crawford Way, preapplication for Paintball Jungle CUP, Napa Junction Mini-Storage permit, Giovannoni Logistics Center, application to renovate the structure for the ruins at Watson Ranch, Lemos Pointe Building permit, Watson Ranch Lots 14/15, Circle K fuel station, Sixth Cycle Housing Element, Accessory Dwelling Unit Ordinance, NVTA PID Study.

City Attorney William Ross shared additional comments about the Housing Element and ADU Ordinance.

COMMISSIONER ITEMS

Commissioners reported on items of interest.

ADJOURNMENT

The meeting adjourned a 7:46 p.m.

CERTIFICATION

Respectfully Submitted,

_____
Nicolle Hall, Administrative Technician

TITLE

Chicken Guy Restaurant Conditional Use Permit

RECOMMENDATION

Approve a Conditional Use Permit for development of a 2,818 square feet quick-serve restaurant with drive-thru lane at 200 American Canyon Road, APN 059-110-056 (File No. PL22-0021)

CONTACT

William He, AICP, Senior Planner

BACKGROUND & ANALYSIS

Site Information

General Plan Designation	Neighborhood Commercial (CN)
Zoning District	Neighborhood Commercial (CN)
Site Size	1.03-acres
Present Use	Undeveloped Lot
Surrounding Zoning and Uses	North: CN / Walgreens pharmacy South: Public (P) / Veterans Park East: Mobile Home Park (MHP) / Mobile Home Park residences West: CN / Vacant lot owned by Union Pacific Railroad
Access	Site access is provided off Broadway St and American Canyon Rd

Summary: The project site is located at a vacant parcel within the American Canyon Road and Broadway Commercial Project, south of the Walgreens Pharmacy at 200 American Canyon Road. Located within the Neighborhood Commercial (CN) zone of the Broadway District Specific Plan (BDSP), a quick serve restaurant requires a Conditional Use Permit (CUP) when it is adjacent to residential uses or residential zones. The site is vacant and is ready for dry and wet utility connections. A location map is included as Attachment 2. Site photographs are included as Exhibit 3.

History: On May 22, 2008, the Planning Commission approved the American Canyon Road and Broadway Commercial Project (the "Project"). The 2008 Project approvals included a tentative parcel map providing three parcels in conjunction with a Design Permit and two Minor Variations to initially authorize four buildings on the property, consisting of a Walgreens pharmacy, two multi-tenant "retail" buildings, and an "El Pollo Loco" drive-thru of approximately 2,974 square-feet. The Project was analyzed in a Mitigated Negative Declaration ("MND") consistent with the California Environmental Quality Act.

Upon approval of a Final Parcel Map and further Minor Variations in 2011, building permits were issued for two of the three parcels. These include the Walgreens Pharmacy and the 7-Eleven convenience store, respectively. No action was taken with respect to the third parcel for its prospective development until the City received the Chicken Guy Conditional Use Permit application in August 2022.

Proposed Development: Chandi Hospitality Group proposes to develop a 2,818 square foot quick-serve Chicken Guy restaurant with drive-thru service on a vacant retail parcel at 200 American Canyon Road. The shopping center located at the northwest corner of Broadway and American Canyon Drive includes a Walgreens Pharmacy, a 7-Eleven convenience store, and a second vacant retail pad.

The proposed Chicken Guy restaurant features seating capacity for 70 people with an indoor dining room an outdoor covered dining porch and will operate from 8:00 AM to 12:00 AM daily. The site includes 29 parking spaces supported with approximately 3,994 square feet of landscaping. The restaurant is a franchise developed by Food Network celebrity, Guy Fieri.

The architecture consists of modern industrial design consistent with BDSP architectural standards. The single-story restaurant includes large windows and a centralized entrance on the north side. The exterior includes a variety of colors and materials, including a horizontal metal canopy and angled red arches at the drive-thru that breaks up the mass of the building. The building uses durable materials, consisting of wood, metal, and glass. The top of the building is 20 feet high with a parapet that reaches 25 feet. A condition of approval requires the parapet to be at least equal in height to screen rooftop equipment. The restaurant also includes two tower features that show the business logo. A photorendering of the restaurant is included as Attachment 4.

The Project was scheduled for the agenda of the Planning Commission meeting of February 23, 2023. The staff report was published on February 17, 2023. On the same day, the applicant requested a continuance of 30 days to review the conditions of approval. At the February 23, 2023 Planning Commission meeting, the Planning Commission received staff's report and public comments for the project. The applicant and property owner were absent. The Planning Commission motioned to continue the project to the next available Public Hearing, which was March 23, 2023.

Site Specific Issues:

Drive-thru lanes: The Design Permit plans depict a single drive-thru lane entering the east side of the site, south of Walgreens. The single lane splits into two drive-thru lanes on the west side of the restaurant where food is ordered from a menu. The two drive-thru lanes merge into one lane on the east side of the restaurant where food orders are delivered. The drive-thru lane exits into the shopping center parking lot just south of the entrance drive-thru lane. A graphic depicting the site plan with the initial drive-thru lane proposal is included as Attachment 5.

Staff reviewed the proposed drive-thru lane configuration and noted that a parking lot drive aisle conflicts with the turning radius for vehicles exiting the drive-thru lane. A condition of approval requires the applicant to submit improvement plans (i.e.: construction documents) that demonstrate a safe and convenient vehicle pathway for the restaurant drive-thru exit lane.

Overhead Utility Undergrounding: BDSP Policy 3-4 requires all existing overhead utility poles on-site and along the property frontage to be placed underground in conjunction with development of the site or as a deferred requirement subject to approval of the City Engineer.

The Chicken Guy Restaurant parcel has approximately 370 linear feet of overhead utilities consisting of three overhead telecom utility poles. A condition of approval requires the applicant to underground the overhead utilities within the site and across Broadway to the first pole. A graphic depicting the undergrounding requirement is included as Attachment 6.

Public Outreach: Staff and the applicant conducted public outreach for the Project. On October 10, 2022, staff mailed a letter to all property owners within 300 feet of the project site and sent e-mails to all interested stakeholders in the City's Gov-Delivery mailing list. The project was also added to the Community Development Department's website for active planning projects.

On February 8, 2023, staff mailed out an official public hearing notice regarding project to the property owners within 300 feet and sent a second round of e-mails to City's Gov-Delivery mailing list. The mailings provided a link that allowed people to provide comments or questions regarding the project. The comment link remains open until 3:00 pm on the Planning Commission hearing day of March 23, 2023.

From the initial outreach from October of 2022 to the time of this writing, staff received fourteen responses. Eight responses were opposed the project, and six were in favor. A copy of the comments received is included as Attachment 7. Additionally, at the February 23 Planning Commission Meeting, five speakers provided public comments on the project, which were opposed to the drive-thru component of the project. A record of the meeting is available at this link.

On October 28, 2022, the Yocha Dehe Wintun Nation (Tribe) concluded they have a cultural interest and authority in the proposed project area because it is within the aboriginal territories of the Yocha Dehe Wintun Nation Tribe. For this reason, the Tribe has concerns that the project could impact

unknown cultural resources and requested a site visit to the project area to evaluate their cultural concerns.

The representative was concerned with the ditch to the west of the site and the depth of the grading. Staff explained that the scope of work will not impact the ditch, as the limit of construction is to the west of the wrought-iron fence and the ditch is approximately 25 feet beyond the wrought-iron fence. Regarding the depth of grading, the applicant is required to invite cultural authorities to their pre-construction meeting prior to any grading. The tribal representative was acceptable to the condition.

The draft Resolution includes BDSP Mitigation Measure MM-CUL-1 and MM CUL-4 which include protocols in the event prehistoric or historic-period human remains or archaeological resources are encountered during ground disturbing activities.

In addition, on January 31, 2023, the City adopted a General Plan Amendment Policy H-8.12 that requires the "Yocha Dehe Wintun Nation Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation" to be implemented in the event any Native American human remains, grave goods, ceremonial items, and items of cultural patrimony are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and
any ground disturbing activity.

As a result, an additional condition of approval has been added to the resolution requiring the use of the Yocha Dehe Wintun Nation Treatment Protocol when any Native American human remains, grave goods, ceremonial items, and items of cultural patrimony are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. A copy of the "Yocha Dehe Wintun Nation Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation" is included as Attachment 1.3. A condition of approval requires the applicant to include cultural representatives to the pre-construction meeting invitation prior to any grading activities.

Entitlement Processing: In November 2022, the property leasehold's attorney, Marcus J. LoDuca, submitted a letter stating that the proposed Chicken Guy restaurant Conditional Use Permit application is not required because a drive-thru restaurant and a subdivision was approved on this parcel in 2008, and the subdivision map was subsequently recorded. A copy of the Marcus J. LoDuca letter is included as Attachment 8.

On January 6, 2023, the City Attorney responded to the developer's claims of continual Project Permit Validity in a letter that explains the three standards for obtaining vested rights to develop has not been satisfied. For this reason, the proposed Chicken Guy Conditional Use Permit application must be approved by the Planning Commission. A copy of the City Attorney's vesting analysis letter is included as Attachment 9.

COUNCIL PRIORITY PROGRAMS AND PROJECTS

Economic Development and Vitality: "Attract and expand diverse business and employment opportunities."

FISCAL IMPACT

The Chicken Guy Restaurant Conditional Use Permit application required a developer's deposit for review and processing, so there is no fiscal impact for staff's time.

ENVIRONMENTAL REVIEW

The 2019 Broadway District Specific Plan (BDSP) Final Environmental Impact Report (FEIR) evaluated the development of the 292-acre site area along the Broadway corridor. The City made findings of overriding consideration for significant and unavoidable impacts. The Chicken Guy Restaurant project site and the amount of development are consistent with the FEIR. In accordance with CEQA Section 15168 (c), staff reviewed the project with a written checklist, supplemental CEQA analysis submitted by applicant, and evaluated the site and operation. The checklist determined that, with the mitigation measures prescribed, the project's environmental effects were within the scope of the program FEIR and there is no substantial evidence that there are changed circumstances requiring further CEQA review. Additionally, the proposed conditional use permit is exempt from CEQA under Categorical Exemption, Class 32 (Section 15332) – In-fill Development Projects.

ATTACHMENTS:

1.1 Exhibit A - BDSP Program EIR Evaluation - Chicken Guy
1.2. Exhibit B - Chicken Guy Plans
1.3. Exhibit C - Chicken Guy CUP - Confirmation of COA
1.4. Exhibit D - Yocha Dehe Protocols
2. Chicken Guy CUP Location Map
3. Site Photographs
4. Photo Renderings
5. Site Plan with Drive-Thru
6. Chicken Guy Restaurant Site - utility undergrounding exhibit
7. Public Comments
8. Do Luca Letter November 28 2022
9. City Attorney (Chicken Guy) 1.6.23
1. Chicken Guy CUP - Resolution

City of American Canyon
Community Development Department
4381 Broadway, Suite 201
American Canyon, CA 94503

Environmental Evaluation for SUBSEQUENT ACTIVITY UNDER A PROGRAM EIR (This is not an Initial Study)

SECTION I. Project Information

Project Title and File No:	Chicken Guy Design Permit (PL 22-0021).
Program EIR Name: **EIR State Clearinghouse Number:**	Broadway District Specific Plan Program Environmental Impact Report. #2017042025
Project Location & APN(s):	Located at 200 American Canyon Road; APN 059-056-000
Project Applicant:	Chandi Hospitality, 537 4th Street, Suite A, Santa Rosa, CA 95401
General Plan Designation:	Neighborhood Commercial
Zoning:	Neighborhood Commercial
Description of Project:	A new 2,818 square foot drive thru quick serve restaurant within a developed shopping center
Surrounding Land Uses and Setting:	North: Walgreens Pharmacy South: Veterans Park and Open space East: Neighborhood Commercial center West: Broadway (SR-29)

Prepared by: **William He, Senior Planner** **Date:** **9/21/2022**
Name, Title

Approved by: **Brent Cooper, Community Dev. Director** **Date:** **9/21/2022**
Name, Title

SECTION II. Program EIR Checklist

In accordance with Section 15168c of the California Environmental Quality Act (CEQA) Guidelines, the following checklist ensures that all project-related impacts have been addressed in the Program EIR. Mitigation measures identified in the Program EIR are listed for each project-related impact.

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
1. Aesthetics Would the project:				
a) Have a substantial adverse effect on a scenic vista?	Yes/**No**	X		
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a state scenic highway?	Yes/**No**	X		
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	Yes/**No**	X		
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	Yes/**No**	X		
2. Agricultural Resources In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	Yes/**No**	X		
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	Yes/**No**	X		
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?	Yes/**No**	X		
3. Air Quality *Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.* *Would the project:*				
a) Conflict with or obstruct implementation of the applicable air quality plan?	**Yes**/No		X	**AIR-2, AIR-3,** AIR-4a, **AIR-4b**

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	**Yes**/No		X	**AIR-2**
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors)?	**Yes**/No		X	**AIR-3**
d) Expose sensitive receptors to substantial pollutant concentrations?	**Yes**/No		X	AIR-4a, **AIR-4b**
e) Create objectionable odors affecting a substantial number of people?	Yes/**No**	X		
f) Generate direct and indirect GHG emissions?	Yes/**No**	X		
g) Conflict with any applicable plan, policy or regulation of an agency adopted to reduce the emissions of GHGs?	Yes/**No**	X		
4. Biological Resources *Would the project:*				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	Yes/**No**		X	BIO-1a, BIO-1b
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	Yes/**No**		X	BIO-2
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	Yes/**No**		X	BIO-2
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?	Yes/**No**	X		
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	Yes/**No**	X		

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	Yes/**No**	X		
5. Cultural Resources *Would the project:*				
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	**Yes**/No		X	**CUL-1**
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	**Yes**/No		X	**CUL-1**
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	**Yes**/No		X	**CUL-3**
d) Disturb any human remains, including those interred outside of formal cemeteries?	**Yes**/No		X	**CUL-4**
e) Will subsurface construction activities damage or destroy previously undiscovered tribal cultural resources?	**Yes**/No		X	**CUL-1**
6. Geology and Soils *Would the project:*				
a) Expose people or structures to potential substantial adverse effects associated with seismic hazards.	**Yes**/No		X	GEO-1a, **GEO-1b**
b) Result in substantial soil erosion or the loss of topsoil?	**Yes**/No		X	**HYD-1A**
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	Yes/**No**	X		
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	**Yes**/No		X	**GEO-1b**
7. Hazards and Hazardous Materials *Would the project:*				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	Yes/**No**	X		
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?	Yes/**No**	X		
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	Yes/**No**	X		

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
d) Be located within one-quarter mile of a facility that might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances or waste?	Yes/**No**	X		
e) Be located on a site of a current or former hazardous waste disposal site or solid waste disposal site unless wastes have been removed from the former disposal site; or 2) that could release a hazardous substance as identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 of Division 20 of the Health and Safety Code?	Yes/**No**	X		
f) Be located on land that is, or can be made, sufficiently free of hazardous materials so as to be suitable for development and use as a school?	Yes/**No**	X		
g) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	Yes/**No**	X		
h) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	Yes/**No**	X		
i) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	Yes/**No**	X		
j) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	Yes/**No**	X		
k) Be located within 1500 feet of: (i) an above-ground water or fuel storage tank, or (ii) an easement of an above ground or underground pipeline that can pose a safety hazard to the proposed school?	Yes/**No**	X		
8. Hydrology and Water Quality *Would the project:*				
a) Violate any water quality standards or waste discharge requirements?	**Yes**/No		X	**HYD-1a, HYD-1b**

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted?	Yes/**No**	X		
c) Substantially alter the existing drainage pattern of area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	Yes/**No**	X		
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?	Yes/**No**	X		
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	Yes/**No**	X		
f) Otherwise substantially degrade water quality?	Yes/**No**	X		
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	Yes/**No**	X		
h) Place within a 100-year flood hazard area structures, which would impede or redirect flood flows?	Yes/**No**	X		
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	Yes/**No**	X		
j) Inundation by seiche, tsunami, or mudflow?	Yes/**No**	X		
9. Land Use and Planning *Would the project:*				
a) Physically divide an established community?	Yes/**No**	X		
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	Yes/**No**	X		
c) Conflict with the Napa County Airport Land Use Compatibility Plan?	Yes/**No**	X		

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
d) Conflict with any applicable habitat conservation plan or natural communities conservation plan?	Yes/**No**	X		
10. Mineral Resources *Would the project:*				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	Yes/**No**	X		
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	Yes/**No**	X		
11. Noise *Would the project result in:*				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	Yes/**No**	X		
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	Yes/**No**	X		
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	Yes/**No**	X		
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	Yes/**No**	X		
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	Yes/**No**	X		
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	Yes/**No**	X		
12. Population and Housing *Would the project:*				
a) Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	Yes/**No**	X		
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	Yes/**No**	X		
c) Displace substantial numbers of people necessitating the construction of replacement housing elsewhere?	Yes/**No**	X		

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
13. Public Services *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:*				
a) Fire Protection?	Yes/**No**	X		
b) Police Protection?	Yes/**No**	X		
c) Schools?	Yes/**No**	X		
d) Parks?	Yes/**No**	X		
e) Other public facilities?	Yes/**No**	X		
14. Recreation				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	Yes/**No**	X		
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?	Yes/**No**	X		
15. Transportation/Traffic *Would the project:*				
a) Would the Project from an "Existing Plus Background Plus Proposed Specific Plan Traffic" perspective conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets ,highways and freeways, pedestrian and bicycle paths, and mass transit?	Yes/**No**	X		
b) Would the Project from a "Cumulative" Traffic perspective conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	Yes/**No**	X		
c) Conflict with applicable congestion management program?	Yes/**No**	X		

Checklist Issues:	Project Related Impact (Bold and Underline)	Impact DOES NOT require mitigation through EIR analysis	Impact DOES require mitigation through EIR analysis**	Assigned Mitigation measures (Bold and Underline)
d) Alter air traffic patterns?	Yes/**No**	X		
e) Create hazards associated with design features or incompatible uses, or result in inadequate emergency access?	Yes/**No**	X		
f) Conflict with adopted policies, plans or programs regarding public transit, bicycle or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	Yes/**No**	X		
16. Utilities and Service Systems *Would the project:*				
a) Require additional water supply entitlements?	Yes/**No**	X		
b) Require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	Yes/**No**	X		
c) Create the need for new or expanded downstream storm drainage facilities?	Yes/**No**	X		
d) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	Yes/**No**	X		
e) Result in the inefficient, wasteful or unnecessary consumption of energy?	Yes/**No**	X		

**The list of "Assigned Mitigation Measures" include *Project Design Features (PDF), Existing Plans, Programs, and Policies (PPP), and Mitigation Measures.* Similar to Mitigation Measures, PDFs and PPPs are project requirements that reduce potential significant impacts of the project

SECTION III. Applicability of CEQA Guidelines Sections 15162 and 15163

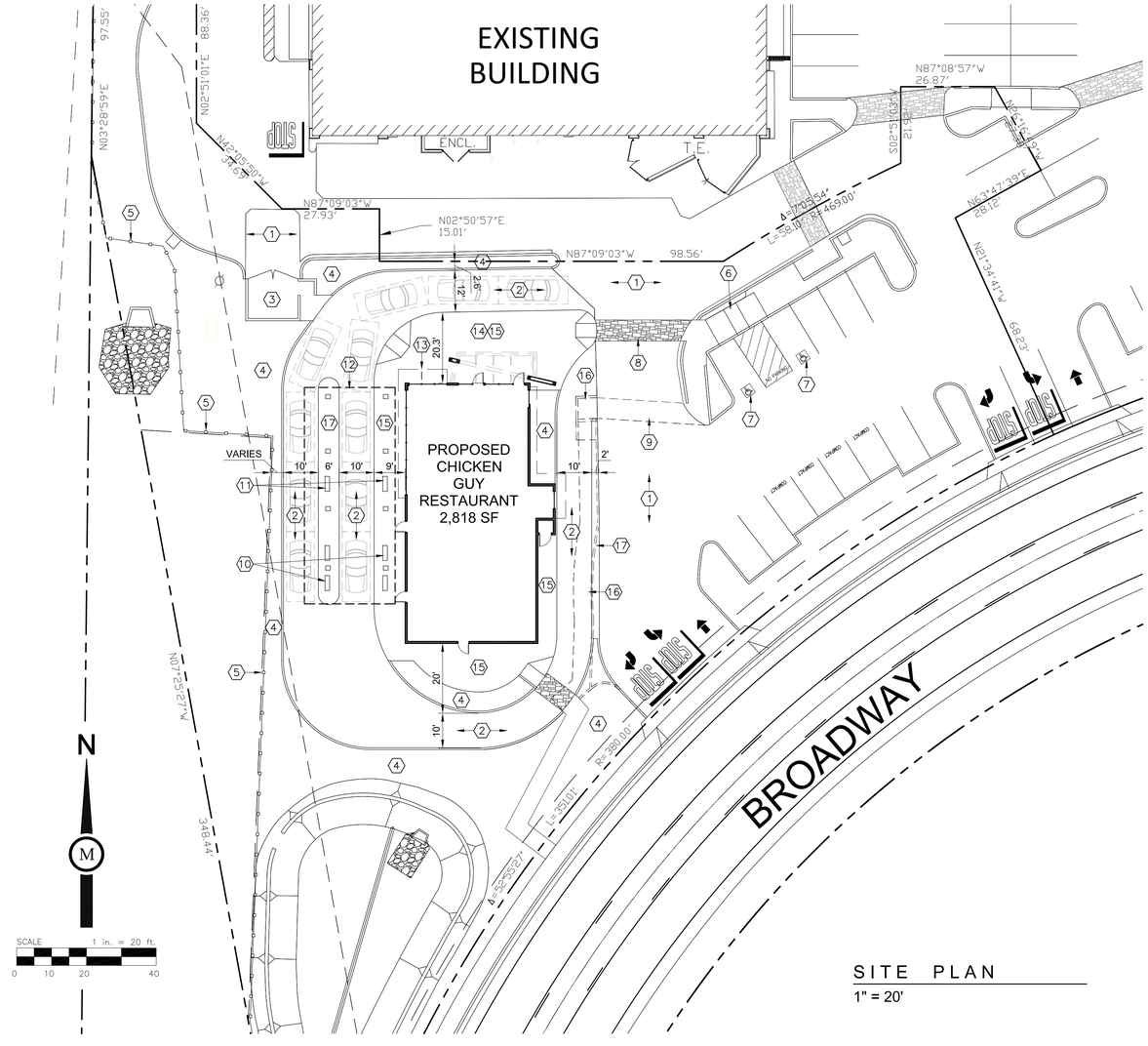
	YES	NO
1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.		X
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects of a substantial increase in the severity of previously identified significant effects; or		X
3. New information of substantial importance to the project becomes available; and		
A. The information was not known and could not have been known with the exercise of reasonable diligence at the time of the previous EIR was certified as complete, shows any of the following:		X
(1) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;		X
(2) Significant effects previously examined will be substantially more severe than shown in the previous EIR;		X
(3) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or		X
(4) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.		X

SECTION IV. Findings

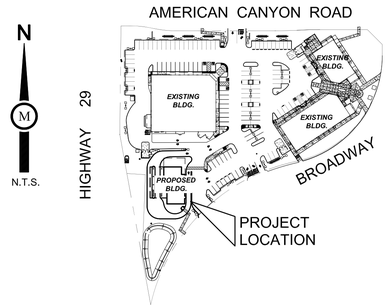
	YES	NO
1. The project has effects that were not examined in the EIR; therefore, an Initial Study needs to be prepared leading to either an EIR or a negative Declaration.		X
2. The agency finds that pursuant to Section 15162, no new effects will occur or no new mitigation measures will be required. The agency can approve the project as being within the scope of the project covered by the EIR, and no new environmental document is required.	X	

CHICKEN GUY RESTAURANT

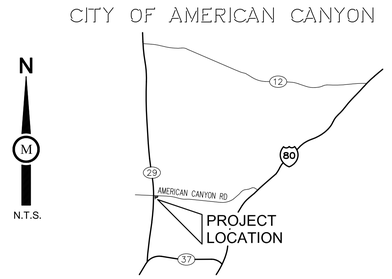
PARCEL 3 (26 PM 76)
AMERICAN CANYON, CA 94503
A.P.N. 059-110-056-000



SITE PLAN
1" = 20'



LOCATION MAP
NOT TO SCALE



VICINITY MAP
NOT TO SCALE

CONSTRUCTION NOTES

1. EXISTING PAVEMENT TO REMAIN
2. NEW PORTLAND CEMENT CONCRETE PAVEMENT
3. NEW 15' WIDE x 12' DEEP COVERED TRASH ENCLOSURE
4. NEW LANDSCAPE AREA
5. EXISTING DECORATIVE WROUGHT IRON FENCE TO REMAIN
6. REMOVE EXISTING SIDEWALK AS REQUIRED FOR NEW ACCESSIBLE RAMPS
7. NEW ACCESSIBLE PARKING SPACE PER ADA REQUIREMENTS
8. NEW STAMPED CONCRETE WALK (MATCH EXISTING)
9. REMOVE EXISTING STAMPED CONCRETE WALK, REPLACE WITH NEW ASPHALT PAVING (MATCH EXISTING)
10. NEW MENU BOARD (TYP. OF 2)
11. NEW PRE-ORDER MENU BOARD (TYP. OF 2)
12. NEW OVERHEAD CANOPY
13. NEW BICYCLE RACK PER CITY STDS.
14. NEW OUTDOOR SEATING AREA
15. NEW PORTLAND CEMENT CONCRETE SIDEWALK
16. REMOVE EXISTING SIDEWALK AS REQUIRED FOR NEW IMPROVEMENTS
17. NEW RAISED CURB MEDIAN

PROPERTY DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF AMERICAN CANYON, COUNTY OF NAPA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 3, AS SHOWN ON THE PARCEL MAP FILED OCTOBER 19, 2011, IN BOOK 26 OF PARCEL MAPS AT PAGES 75 AND 76, IN THE OFFICE OF THE COUNTY RECORDER OF NAPA COUNTY.

APN 059-110-056-000

SITE UTILITIES

SEWAGE DISPOSAL:	CITY
WATER SUPPLY:	CITY
DRAINAGE:	CITY

APPLICANT

JOTI SINGH CHANDI
CHANDI HOSPITALITY GROUP
537 4TH STREET, SUITE A
SANTA ROSA, CA 95401
PHONE: 925-348-2693

LOT DATA:

A.P.N.:	059-110-056-000
TOTAL ACREAGE:	44,853 SF (1.03 AC)
EXISTING PARCELS:	1
PROPOSED PARCELS:	1
EXISTING ZONE:	CN NEIGHBORHOOD COMMERCIAL
PROPOSED ZONE:	SAME
EXISTING USE:	VACANT-UNDEVELOPED
PROPOSED USE:	DRIVE THRU RESTAURANT

SITE COVERAGE

RESTAURANT:	2,818 SF (6.3%)
LANDSCAPE AREA:	4,540 SF (10.1%)
PAVED SURFACE AREA:	37,495 SF (83.6%)

PARKING DATA:

DRIVE THRU RESTAURANT (2,818 SF): (2,818 SF / 100 SF):	29
REQUIRED:	29 SPACES
STANDARD PARKING SPACE (9'x18')	13 SPACES
RECIPROCAL PARKING SPACE (9'x18')	14 SPACES
ACCESSIBLE PARKING SPACE (9'x18')	2 SPACES
PROVIDED:	29 SPACES

SHEET INDEX

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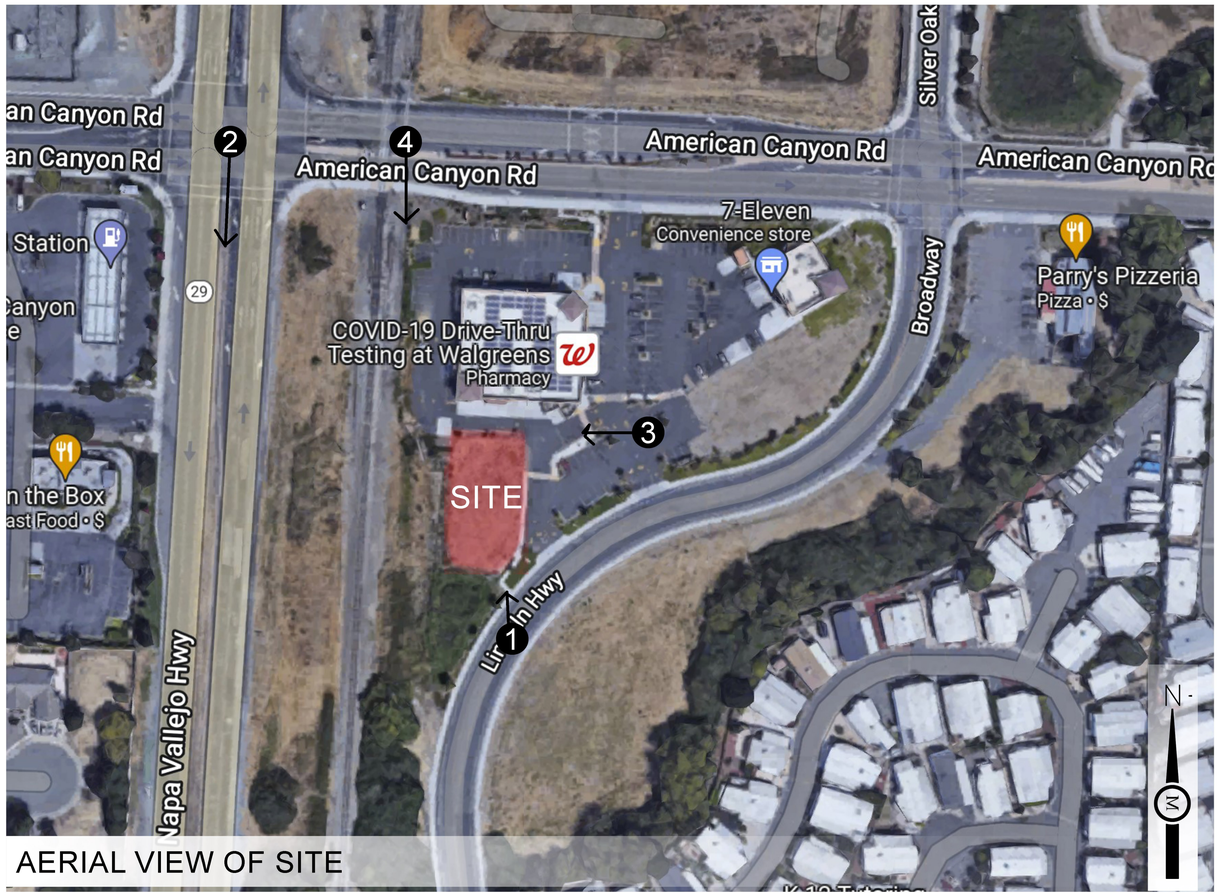
(530) 755-4700

CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

SITE PLAN / PROJECT DATA 1

08-22-22



AERIAL VIEW OF SITE

1 VIEW FROM BROADWAY LOOKING NORTH TOWARDS SITE

2 VIEW FROM INTERSECTION OF AMERICAN CANYON ROAD AND HWY 29

4 VIEW FROM AMERICAN CANYON ROAD LOOKING SOUTH

3 VIEW FROM PARKING LOT ON NEIGHBORING SITE

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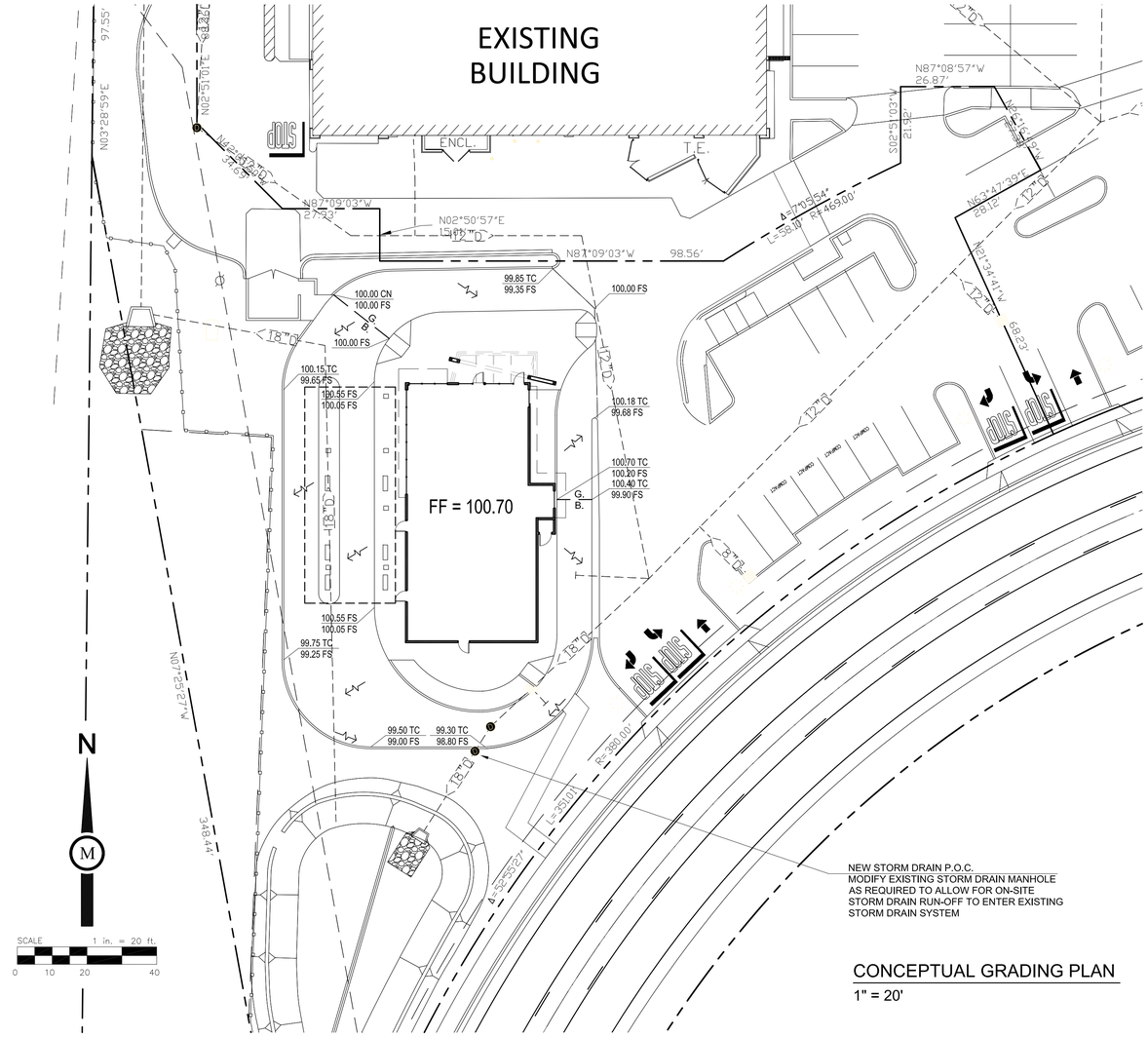
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

SITE PHOTOGRAPHS 2

8-12-22



CONCEPTUAL GRADING PLAN

1" = 20'

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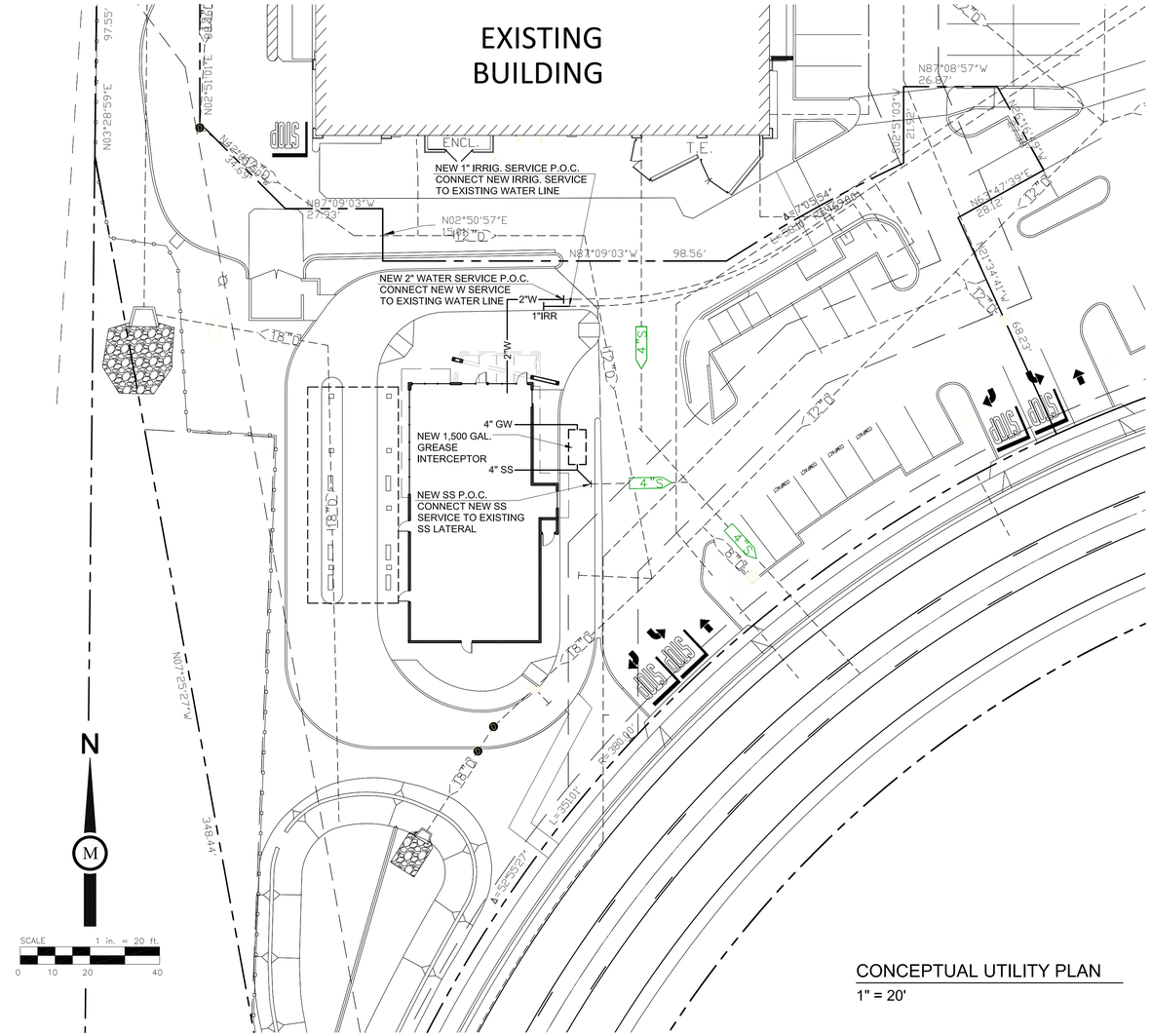
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

CONCEPTUAL
GRADING PLAN 3

08-22-22



CONCEPTUAL UTILITY PLAN
1" = 20'

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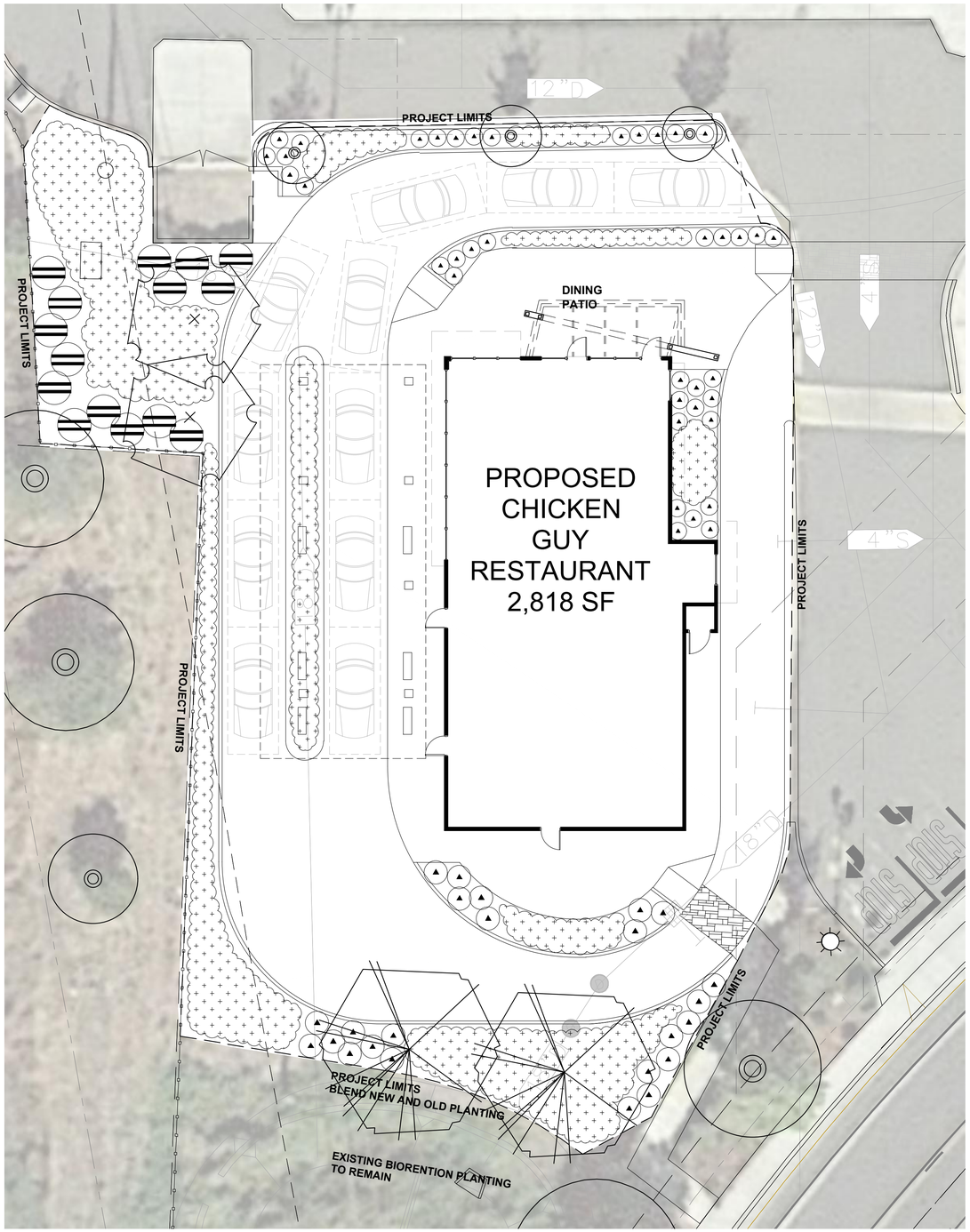
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

CONCEPTUAL
UTILITY PLAN

4

08-22-22



PROPOSED PLANTING LEGEND

TREE SPECIES SYM	BOTANICAL NAME	COMMON NAME	SIZE	QTY	WATER USAGE
	ULMUS PARVIFOLIA	CHINESE EVERGREEN ELM	15 GAL	2	LOW
	LAGERSTROEMIA H. 'MUSKOGEE'	LAVENDER CRAPE MYRTLE	15 GAL	2	LOW
	EXISTING TREES TO REMAIN				

SHRUB SPECIES ABRV.	BOTANICAL NAME	COMMON NAME	SIZE	QTY	WATER USAGE
LARGE SCREENING SHRUBS					
	ARBUTUS 'MARINA'	MARINA STRAWBERRY BUSH	5 GAL		LOW
	FEIJOA SELLOWIANA	PINEAPPLE GUAVA	5 GAL		LOW
	LIGUSTRUM OVALIFOLIUM	CALIFORNIA PRIVET	5 GAL		LOW
	ARCTOSTAPHYLOS 'HOWARD MCMINN'	HOWARD MCMINN MANZANITA	5 GAL		LOW
ACCENT SHRUBS					
	HESPERALOE PARVIFOLIA	RED YUCCA	5 GAL		LOW
	CEANOTHUS 'CONCHA'	CONCHA CEANOTHUS	5 GAL		LOW
	PHORMIUM TENAX & HYBRIDS	NEW ZEALAND FLAX	5 GAL		LOW
	PLUMBAGO AURICULATA	CAPE PLUMBAGO	5 GAL		LOW
LOW-SPREADING SHRUBS					
	ARCTOSTAPHYLOS HOOKERI 'MONTEREY CARPET'	MONTEREY CARPET MANZANITA	5 GAL		LOW
	EPILOBIUM CANUM	CALIFORNIA FUCHSIA	5 GAL		LOW

MAWA CALCULATIONS (2015 Update)

MAXIMUM APPLIED WATER ALLOWANCE CALCULATIONS FOR NEW AND REHABILITATED LANDSCAPES

CITY NAME:	Vallejo	(Vallejo Eto 40.3)
ETo of City:	40.3	ETo (Inches/Year)
Total Square Footage of Landscape (Including SLA):	3,994	
Special Landscape Area (SLA):	0	
MAWA Results		
MAWA = (ETo) x (.62) x [(.45 x LA) + (.55 x SLA)]	44,907	Gallons
	6,003.24	Cubic Feet
	60.03	HCF
	0.14	Acre-feet
	0.04	Millions of Gallons

WATER EFFICIENT LANDSCAPE WORKSHEET (2015 Update)

ESTIMATED TOTAL WATER USAGE (ETWU)

Reference Evapotranspiration (ETo): 40.3 Vallejo

ETWU = (ETo) x (.62) x [(ETAF x LA) + (1-ETAF x SLA)]

Hydrozone # / Planting Desc.	Plant Factor (PF)	Irrigation Method	Irrigation Efficiency	ETAF (PF/IE)	Landscape Area (sq. ft)	ETAF x Area	Est. Total Water Use (ETWU)*
Regular Landscape Areas							
A 1 - Low	0.3	Drip	0.81	0.37	1,000	370.4	9,254.1
A 2 - Low	0.3	Bubbler	0.81	0.37	Incl. in Zone A	-	-
B 3 - Low	0.3	Drip	0.81	0.37	1,362	500.7	12,511.5
B 4 - Low	0.3	Bubbler	0.81	0.37	Incl. in Zone B	-	-
C 5 - Low	0.3	Drip	0.81	0.37	1,642	608.1	15,195.2
C 6 - Low	0.3	Bubbler	0.81	0.37	Incl. in Zone C	-	-
				TOTALS:	3,994	1479.3	
Special Landscape Areas							
				1			
				1			
				TOTALS:	0		
						ETWU Total:	36,961 Gal
					MAXIMUM ALLOWED WATER ALLOWANCE (MAWA):		44,907 Gal
						ETWU complies with MAWA	

ETAF Calculations

Regular Landscape Areas		Plant Factors:	
Total ETAF x Area:	1479.3	Low	0.1 - 0.3
Total Area:	3994	Medium	0.4 - 0.6
Average ETAF:	0.37	High	0.7 - 1.0
All Landscape Areas		Irrigation Efficiency (IE):	
Total ETAF x Area:	1479.3	Spray Heads	0.75
Total Area:	3994	Drip Emitters	0.81
Average ETAF:	0.37		

STATE MODEL WATER EFFICIENT LANDSCAPE ORDINANCE (MWELO) NOTES:

Changes to the approved plans or field substitutions shall not be permitted without prior written approval from the Landscape Architect and the City of American Canyon. If the owner/contractor deviates from the approved plan without prior written approval they will be required to make any corrections, at their own expense, to bring the landscape and irrigation into complaince with the approved plans and the State Model Water Efficient Landscape Ordinance.

PRELIMINARY LANDSCAPE IRRIGATION CALCULATIONS

ZONING CODE NOTES:

§16.14 ET SEQ.: WATER-EFFICIENT LANDSCAPING:

§16.14.060 GENERAL REQS & STANDARDS:
1. LANDSCAPED AREAS SHALL BE PROTECTED BY SIX-INCH CONCRETE CURBING;
2. LANDSCAPING DESIGNED TO SEPARATE PARKING AND VEHICLE CIRCULATION AREAS FROM BUILDINGS, PROVIDING A VISUALLY PLEASING FOREGROUND FOR BUILDINGS, AND ENHANCING THE PERIMETER OF THE PROJECT;
3. PLAN PROPOSES LARGE-SCALE STREET TREES WITH BROAD CANOPIES ALONG MAJOR STREETS;
4. TREE PLANTING DESIGN CONSIDERS PASSIVE AND ACTIVE SOLAR HEATING OPPORTUNITIES; AND
5. PARKING LOT TREES ARE PROPOSED TO PROVIDE SHADING OF PARKED VEHICLES TO THE MAXIMUM EXTENT FEASIBLE.

§16.14.070 WATER EFFICIENT LANDSCAPE WORKSHEET:
1. LANDSCAPE CONSTRUCTION DOCUMENTS WILL BE PRODUCED AND SUBMITTED TO THE CITY OF AMERICAN CANYON;
2. LANDSCAPE CDs WILL INCLUDE WATER EFFICIENT LANDSCAPE WORKSHEET; AND
3. WATER BUDGET CALCULATIONS SHALL BE PURSUANT TO AB 1881, WUCOLS AND USE THE ANNUAL ETo 45.8.

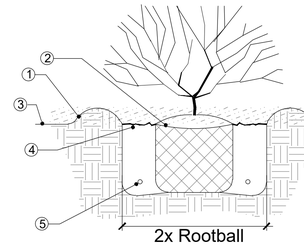
§16.14.080 IRRIGATION EFFICIENCY:
1. MAWA WILL BE CALCULATED ASSUMING 0.71 AS THE AVERAGE IRRIGATION EFFICIENCY;

§16.14.090 SOIL MANAGEMENT REPORT: (TO BE PROVIDED BY OTHERS)

§16.14.100 LANDSCAPE DESIGN PLAN:
1. ALL PROPOSED PLANTS ARE ADAPTED TO THE CLIMATE;
2. AT LEAST 75% OF THE TOTAL NUMBER OF PLANTS SHALL REQUIRE OCCASIONAL, LITTLE OR NO SUMMER WATER;
3. WATER CATEGORIZING CAN BE BASED ON THE FOLLOWING SOURCES: CALIFORNIA NATIVE PLANTS FOR THE GARDEN (OCCASIONAL, INFREQUENT, DROUGHT TOLERANT), EB MUD PLANTS & LANDSCAPES FOR SUMMER DRY CLIMATES (OCCASIONAL, INFREQUENT, NO SUMMER WATER), SUNSET WESTERN (LITTLE OR NO WATER), AND UC COOP EXTENSION'S GUIDE TO ESTIMATING IRRIGATION WATER NEEDS OF LANDSCAPE PLANTINGS IN CA (LOW, VERY LOW);
4. PROPOSED PLANTS EXCLUDE CALIFORNIA INVASIVE PLANT COUNCIL'S (CAL-IPC) PLANTS INVASIVE TO SAN FRANCISCO BAY AREA;
5. PLANT SPECIES WILL BE SELECTED AND SPACED TO ALLOW TO GROW TO NATURAL SIZE AND SHAPE; AND
6. PLANTS ARE SELECTED AND PLANTED APPROPRIATELY BASED UPON THEIR ADAPTABILITY TO THE CLIMACTIC, GEOLOGIC, AND TOPOGRAPHICAL CONDITIONS OF THE PROJECT SITE.

§19.21.030(K) ET SEQ. VEHICLE PARKING REQUIREMENTS (LANDSCAPING):
1. LANDSCAPED AREA MUST BE A MINIMUM 10% OF PARKING AND CIRCULATION SQUARE FOOTAGE;
2. LANDSCAPED AREAS HAVE A MINIMUM WIDTH OF 5';
3. ONE SHADE TREE FOR EVERY 6 (DOUBLE-LOADED) PARKING LAYOUT, OR ONE TREE FOR EVERY 3 (SINGLE-LOADED) PARKING LAYOUT; AND
4. LANDSCAPED PLANTERS WITHIN PARKING AREAS MAY BE DIAMOND-SHAPED.

TOTAL LANDSCAPE SQUARE FOOTAGE: 3,994 SF
TOTAL SITE AREA: 14,788 SF
SCOPE SQUARE FOOTAGES ARE APPROXIMATE. ALL NEW LANDSCAPE TO BE BLENDED INTO EXISTING LANDSCAPE, WHERE EXISTING LANDSCAPE IS REASONABLY AESTHETIC. NOTIFY LANDSCAPE ARCHITECT IF ESTIMATED PROJECT BOUNDARIES HEREIN DO NOT MEET ACTUAL SITE CONDITIONS.



1. Provide 3" berm around tree/shrub for water basin. Mulch plant well with 3" of 1/2" bark or recycled wood chips.
2. Plant shrub 1" above existing grade to allow for settlement.
3. Finish grade.
4. Backfill material - mix existing soil.
5. Place three (3) time release fertilizer tablets in each 15-gallon tree pit. (1) per 1-Gallon, (2) per 5-Gallon.

TYPICAL SHRUB PLANTING

ITEM	TOTAL (SF)	% OF SITE	% OF LANDSCAPE
SITE	14,788		
LANDSCAPE	3,994*	27.0%*	
LANDSCAPE ADJACENT TO/SURROUNDING PARKING AND CIRCULATION AREAS	3,994*	27.0%	100.0%
PARKING AND CIRCULATION AREAS	5,218	35.3%	
TURF	0	0%	0%

* DOES NOT INCLUDE BIORETENTION BASIN SF

SQUARE FOOTAGE TABLE

N

SCALE: 1" = 10'-0"
0' 2.5' 5' 10' 15' 20'

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Yuba City, CA 95991
(530) 755-4700

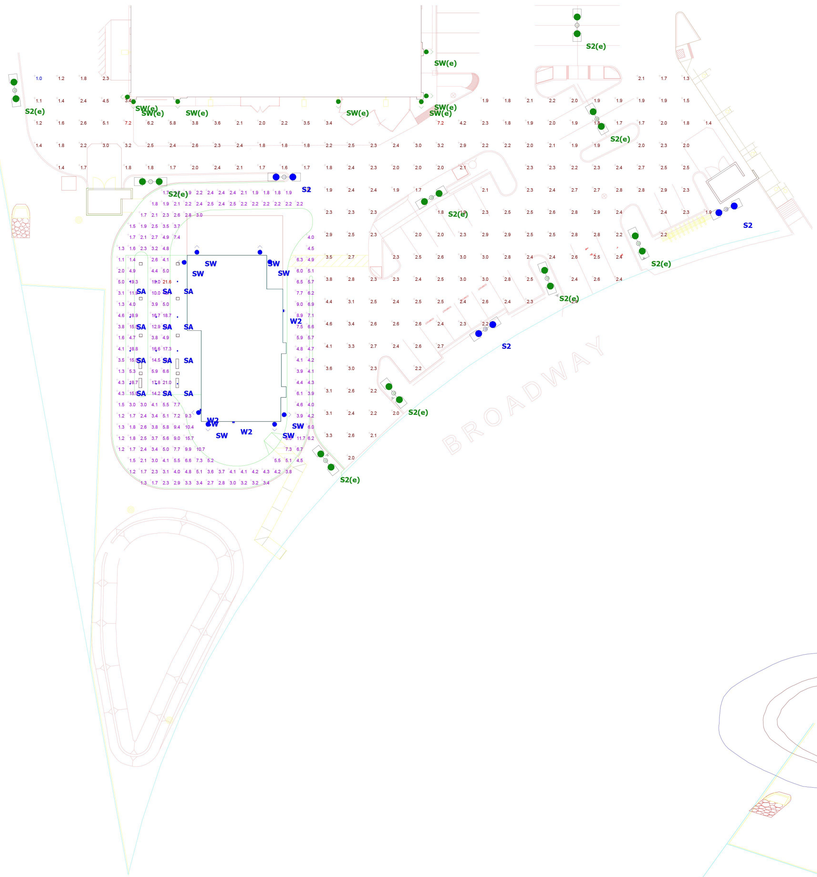
WPLA
WATKINS PLANNING & LANDSCAPE ARCHITECTURE, INC.
ERIK WATKINS, PLA
CA #5753
(707) 628-5326

CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

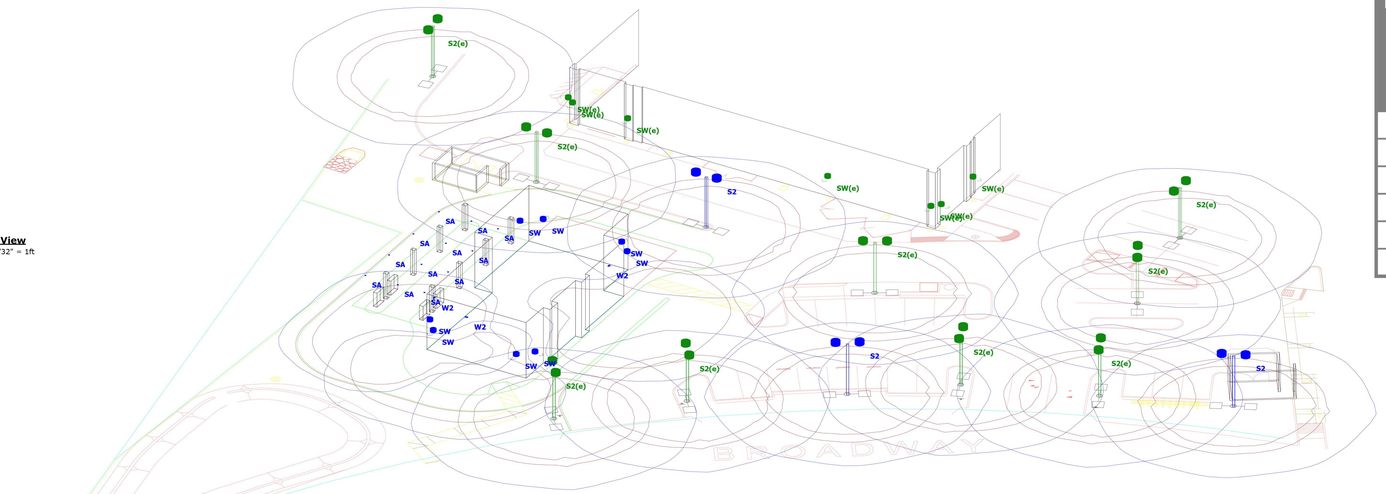
PRELIMINARY LANDSCAPE PLAN

5

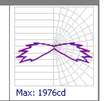
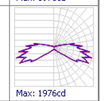
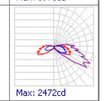
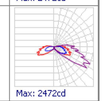
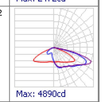
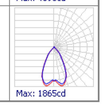
08-22-22



Plan View
Scale - 1/32" = 1ft



Schedule

Symbol	Label	Image	Quantity	Manufacturer	Catalog Number	Description	Number Lamps	Lumens Per Lamp	Light Loss Factor	Wattage	Plot
	S2		3	SUN VALLEY LIGHTING	LCGR-LED-VPA-V-64LED--525mA-NW	DECORATIVE POST TOP, LED MODULES EACH CONSISTING OF:	64	123	0.9	209.6	 Max: 1976cd
	S2(e)		9	SUN VALLEY LIGHTING	LCGR-LED-VPA-V-64LED--525mA-NW	DECORATIVE POST TOP, LED MODULES EACH CONSISTING OF: *** Existing fixture shown for light contribution***	64	123	0.9	209.6	 Max: 1976cd
	SW		8	SUN VALLEY LIGHTING	LCGR-LED-VPA-III-36LED-525mA-NW, WALL MOUNTED	DECORATIVE POST TOP, LED MODULES EACH CONSISTING OF: WALL MOUNTED	36	131	0.9	60.4	 Max: 2472cd
	SW(e)		7	SUN VALLEY LIGHTING	LCGR-LED-VPA-III-36LED-525mA-NW, WALL MOUNTED	DECORATIVE POST TOP, LED MODULES EACH CONSISTING OF: WALL MOUNTED *** Existing fixture shown for light contribution***	36	131	0.9	60.4	 Max: 2472cd
	W2		3	Lithonia Lighting	WDGE3 LED P3 70CRI RFT 40K	WDGE3 LED WITH P3 - PERFORMANCE PACKAGE, 4000K, 70CRI, FORWARD THROW OPTIC	1	10145	0.9	71.6952	 Max: 4890cd
	SA		12	Lithonia Lighting	LDN6 40/20 LO6AR LD	6IN LDN, 4000K, 2000LM, CLEAR, MATTE DIFFUSE REFLECTOR, CRI80	1	1798	0.9	22.52	 Max: 1865cd

Statistics

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
DRIVE / PARKING	+	2.5 fc	2.5 fc	7.2 fc	1.0 fc	7.2:1
DRIVE-THRU	+	5.5 fc	5.5 fc	21.6 fc	1.1 fc	19.6:1

Luminaire Locations

Label	MH
S2(e)	18.00
S2	18.00
SA	9.00
SW	8.00
SW(e)	8.00
W2	16.00

Disclaimer
Photometric analyses performed by CJS Lighting are intended or informational and/or estimation purposes only. Using industry-recognized software, calculations correspond to the information provided to CJS Lighting, and are subject to the limitations of the software. Assumptions may be made for information that is not provided or available. It is the responsibility of the client to verify that the input data is consistent with actual field conditions.
Due to the above considerations, CJS Lighting does not guarantee that actual light levels measured in the field will match initial calculations, and recommend that drawings be submitted to a certified electrical engineer for verification.

CJS Lighting

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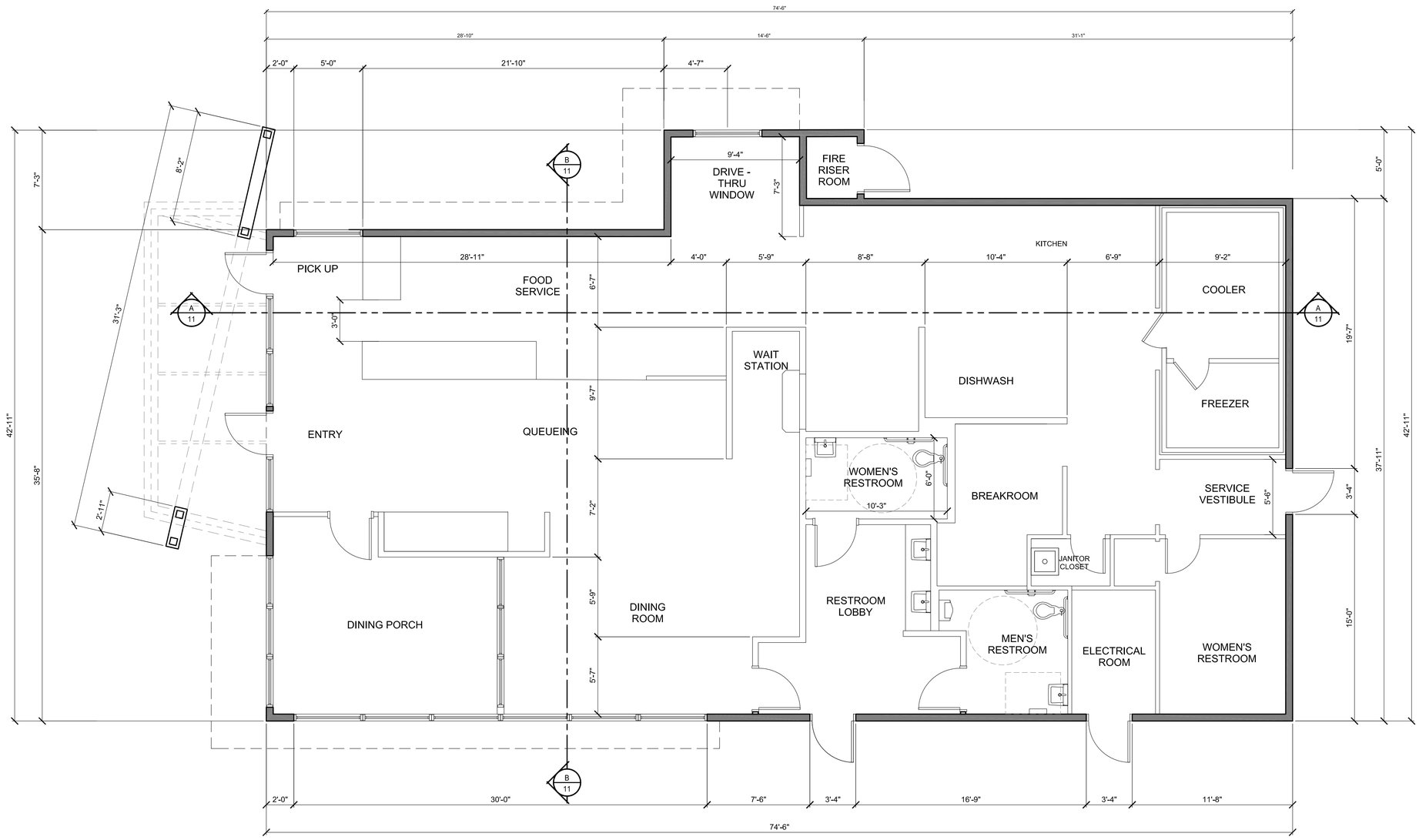
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

PHOTOMETRIC PLAN

6

8-12-22



FLOOR PLAN

1/4" = 1'-0"

LEGEND:

NEW WALL

INTERIOR WALL

N

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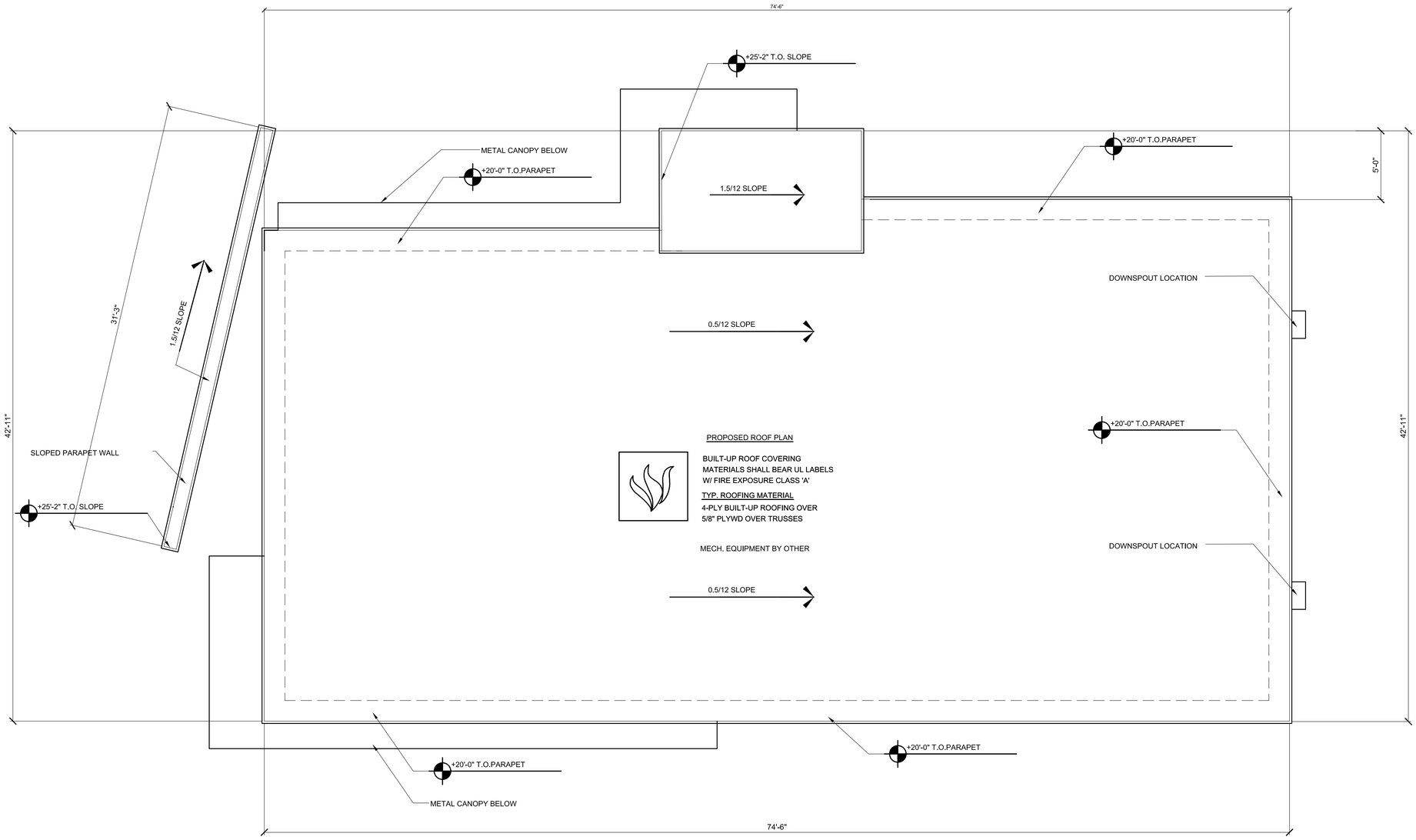
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

FLOOR PLAN 7

8-12-22



ROOF PLAN

1/4" = 1'-0"

N

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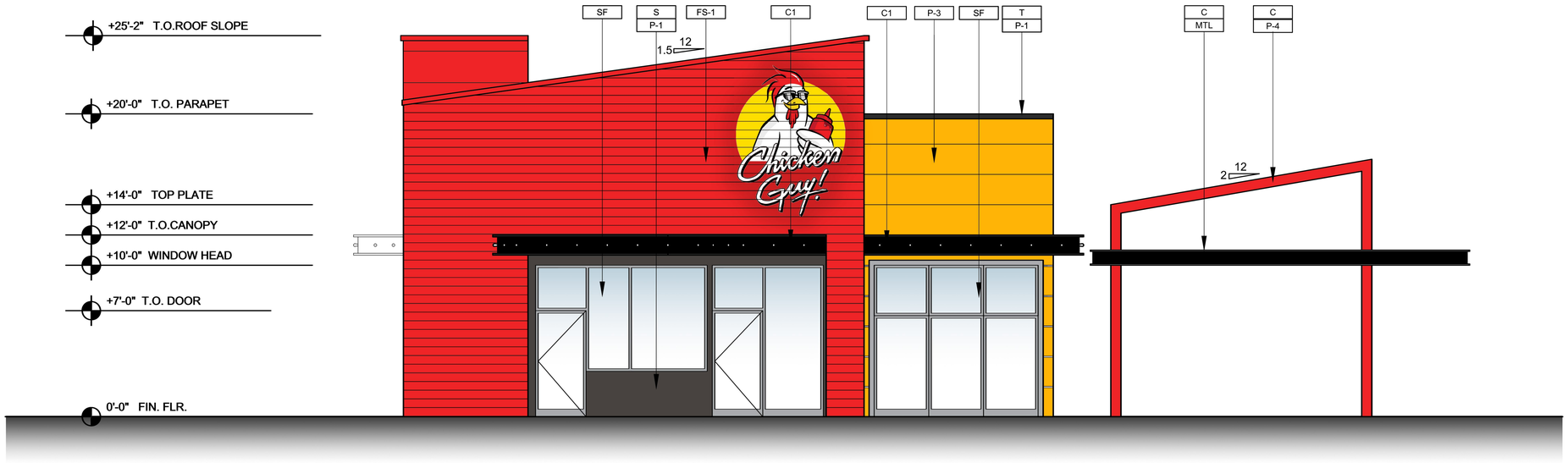
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

ROOF PLAN

8

8-12-22



FRONT ELEVATION (NORTH)

1/4" = 1'-0"

GENERAL NOTES:

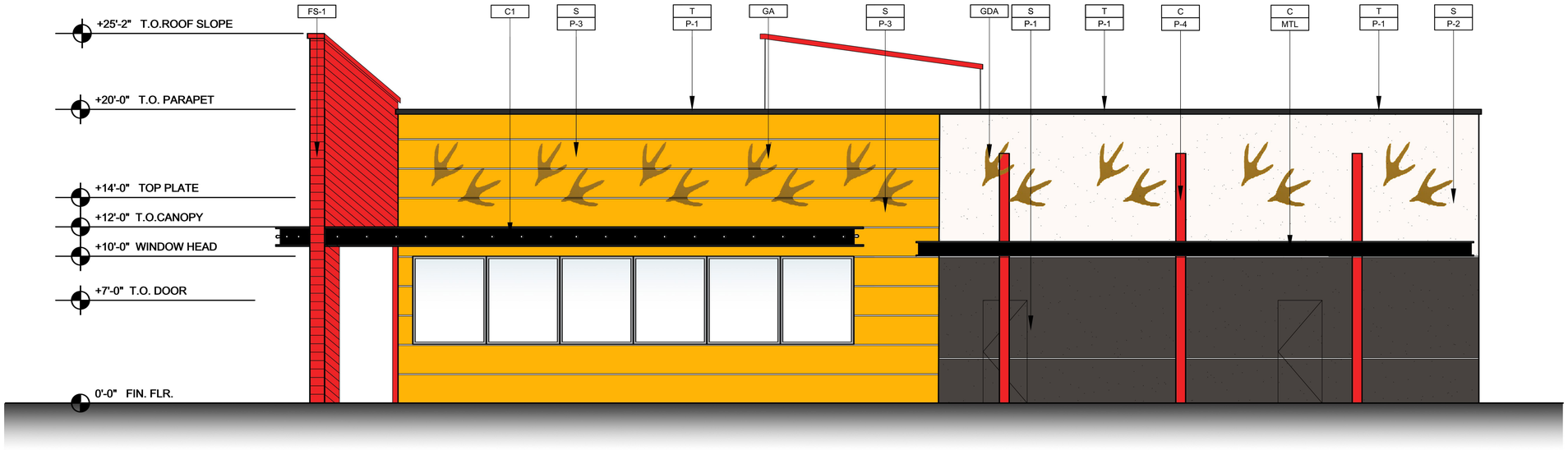
A. REAVEAL LOCATIONS IN FINISH SYSTEM SHOWN ARE TO ALIGN AS CLOSELY AS POSSIBLE TO ELEVATIONS.

COLOR LEGEND:

P-1	SHERWIN WILLIAMS COLOR: SW7020 BLACK FOX	FS-1	TRESPA PURA LAMINATE WALL CLADDING COLOR: PASSION RED
P-2	SHERWIN WILLIAMS COLOR: SW7006 EXTRA WHITE	MTL	TO MATCH BERRIDGE MATTE BLACK
P-3	SHERWIN WILLIAMS COLOR: SW6905 GOLDFINCH		
P-4	SHERWIN WILLIAMS COLOR: SW6869 STOP		

MATERIAL LEGEND:

C	PRE ENGINEERED METAL CANOPY
C1	PRE ENGINEERED METAL CANOPY IN BLACK WITH EDISON BULB STYLE LIGHTING ACCENT
S	STUCCO; 7/8" CEMENT PLASTER
T	TRIM AND CORNICE
SF	STOREFRONT
GDA	GOLD FCO ALUMINUM. (CHICKEN TRACKS)
GA	GREY FCO ALUMINUM. (CHICKEN TRACKS)



RIGHT SIDE ELEVATION (WEST)

1/4" = 1'-0"

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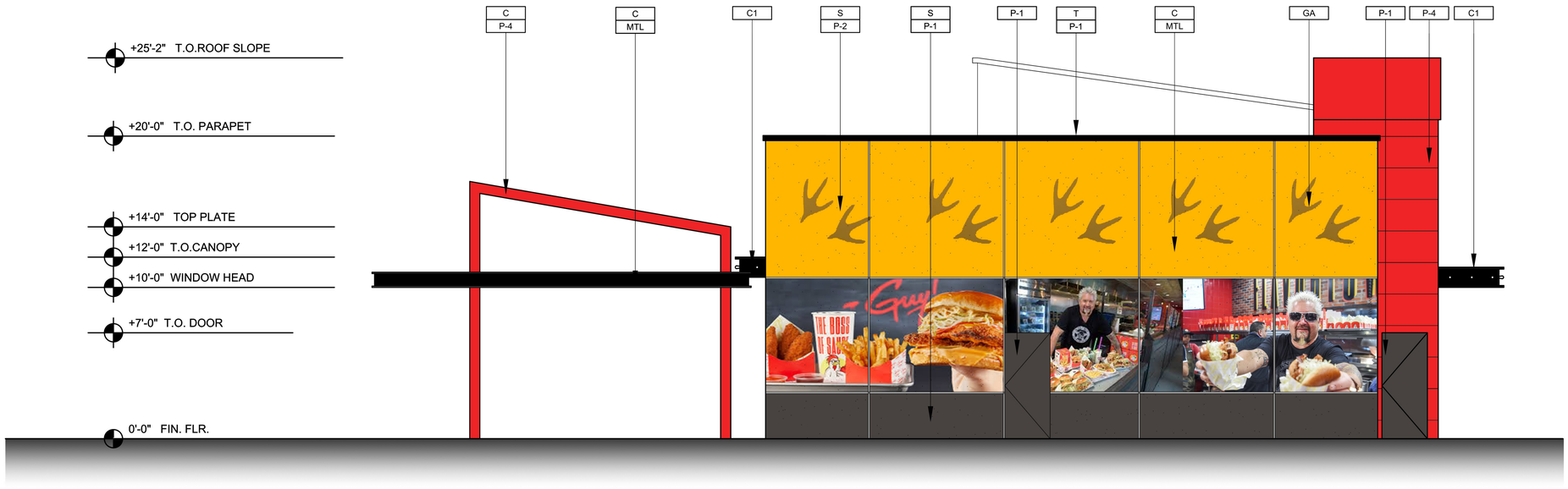
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

COLORED
EXTERIOR ELEVATION

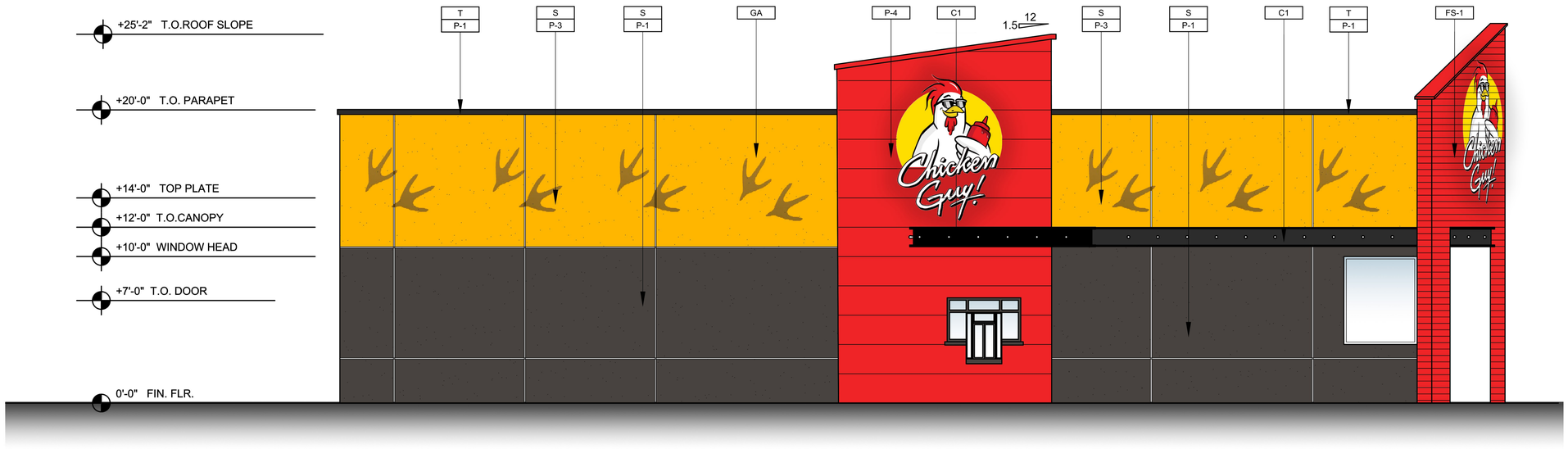
9

8-12-22



REAR ELEVATION (SOUTH)

1/4" = 1'-0"



LEFT SIDE ELEVATION (EAST)

1/4" = 1'-0"

GENERAL NOTES:

A. REAVEAL LOCATIONS IN FINISH SYSTEM SHOWN ARE TO ALIGN AS CLOSELY AS POSSIBLE TO ELEVATIONS.

COLOR LEGEND:

P-1	SHERWIN WILLIAMS COLOR: SW7020 BLACK FOX	FS-1	TRESPA PURA LAMINATE WALL CLADDING COLOR: PASSION RED
P-2	SHERWIN WILLIAMS COLOR: SW7006 EXTRA WHITE	MTL	TO MATCH BERRIDGE MATTE BLACK
P-3	SHERWIN WILLIAMS COLOR: SW6905 GOLDFINCH		
P-4	SHERWIN WILLIAMS COLOR: SW6869 STOP		

MATERIAL LEGEND:

C	PRE ENGINEERED METAL CANOPY
C1	PRE ENGINEERED METAL CANOPY IN BLACK WITH EDISON BULB STYLE LIGHTING ACCENT
S	STUCCO; 7/8" CEMENT PLASTER
T	TRIM AND CORNICE
SF	STOREFRONT
GDA	GOLD FCO ALUMINUM. (CHICKEN TRACKS)
GA	GREY FCO ALUMINUM. (CHICKEN TRACKS)

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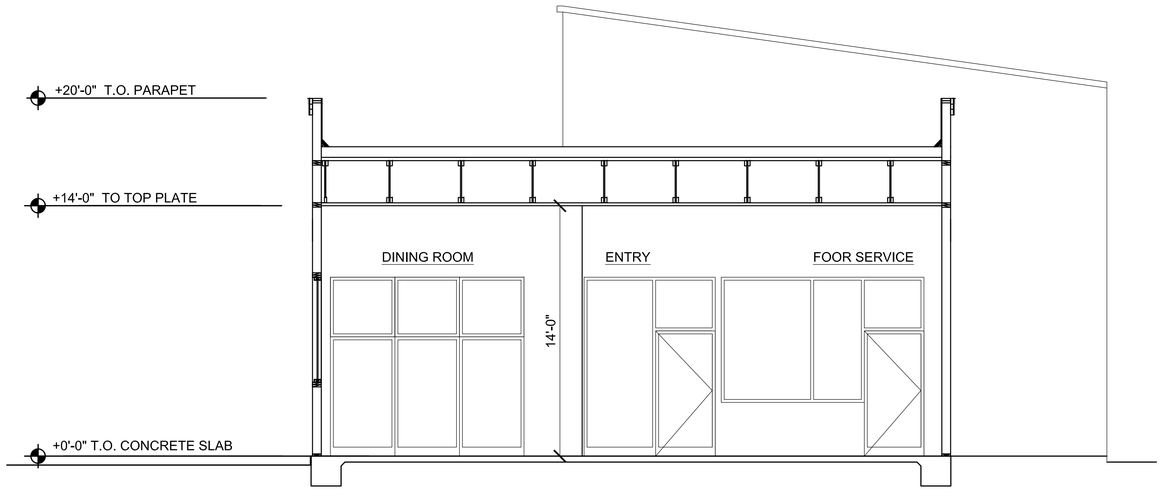
CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

COLORED EXTERIOR ELEVATION

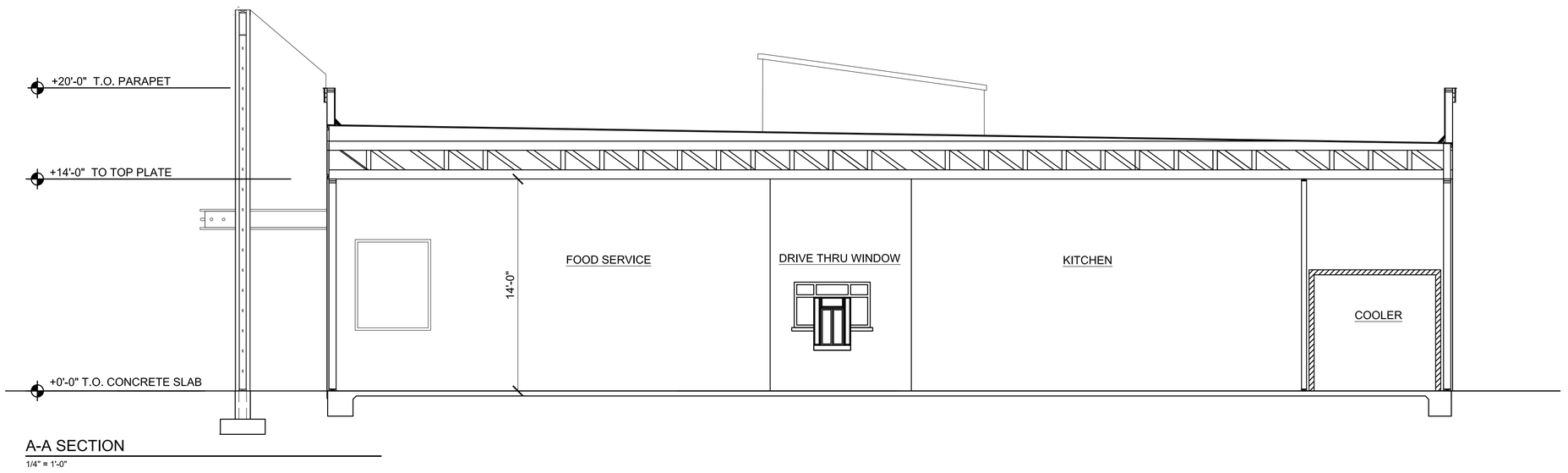
10

8-12-22



B-B SECTION

1/4" = 1'-0"



A-A SECTION

1/4" = 1'-0"

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CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

BUILDING SECTIONS

11

8-12-22

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CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

RENDERING 12

8-12-22

EXHIBIT C
Applicant Confirmation of Conditions of Approval
Chicken Guy Restaurant Conditional Use Permit
(FILE NO. PL22-0021)

As shown by my signature below, I confirm that I understand and agree to abide by the conditions of approval included in the Planning Commission Resolution dated March 23, 2023.

Applicant's signature	Date
Applicant's name	
Property Owner's signature	Date
Property Owner's name	

Please return signed confirmation to the City of American Canyon Community Development Department, 4381 Broadway, Suite 201, American Canyon, CA 94503

YOCHA DEHE
CULTURAL RESOURCES

August 18, 2022

City of American Canyon
Attn: Nicolle Hall, Administrative Technician
4381 Broadway St., Suite 201
American Canyon, CA 94503

RE: American Canyon 6th Cycle Housing Element YD-03152022-04

Dear Ms. Hall:

Thank you for the consultation meeting on, August 08, 2022, regarding the proposed American Canyon 6th Cycle Housing Element. We appreciate you taking the time to discuss the project.

Based on the information provided during our consultation meeting, the Tribe has concerns that the project could impact known cultural resources. Therefore, we request that you incorporate Yocha Dehe Wintun Nation's Treatment Protocol into the mitigation measures for this project. Please submit the updated mitigation measures to the Cultural Resources Department once completed. We respectively decline any comment on the project at this time.

Should you have any questions, please feel free to contact:

CRD Administrative Staff
Yocha Dehe Wintun Nation
Office: (530) 796-3400
Email: THPO@yochadehe-nsn.gov

Please refer to identification number YD – 03152022-04 in any correspondence concerning this project.

Thank you for providing us with this notice and the opportunity to comment.

Sincerely,

DocuSigned by:
5ED632FDB9C34EA...
Tribal Historic Preservation Officer

YOCHA DEHE
CULTURAL RESOURCES

Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation

The purpose of this Protocol is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and items of cultural patrimony, in the event that any are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. This Protocol also formalizes procedures for Tribal monitoring during archaeological studies, grading, and ground-disturbing activities.

I. Cultural Affiliation

The Yocha Dehe Wintun Nation ("Tribe") traditionally occupied lands in Yolo, Solano, Lake, Colusa and Napa Counties. The Tribe has designated its Cultural Resources Committee ("Committee") to act on the Tribe's behalf with respect to the provisions of this Protocol. Any human remains which are found in conjunction with Projects on lands culturally-affiliated with the Tribe shall be treated in accordance with Section III of this Protocol. Any other cultural resources shall be treated in accordance with Section IV of this Protocol.

II. Inadvertent Discovery of Native American Human Remains

Whenever Native American human remains are found during the course of a Project, the determination of Most Likely Descendant ("MLD") under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission ("NAHC") upon notification to the NAHC of the discovery of said remains at a Project site. If the location of the site and the history and prehistory of the area is culturally-affiliated with the Tribe, the NAHC contacts the Tribe; a Tribal member will be designated by the Tribe to consult with the landowner and/or project proponents.

Should the NAHC determine that a member of an Indian tribe other than Yocha Dehe Wintun Nation is the MLD, and the Tribe is in agreement with this determination, the terms of this Protocol relating to the treatment of such Native American human remains shall not be applicable; however, that situation is very unlikely.

III. Treatment of Native American Remains

In the event that Native American human remains are found during development of a Project and the Tribe or a member of the Tribe is determined to be MLD pursuant to Section II of this Protocol, the following provisions shall apply. The Medical Examiner shall immediately be notified, ground disturbing activities in that location shall cease and the Tribe shall be allowed, pursuant to California Public Resources Code Section 5097.98(a), to (1) inspect the site

of the discovery and (2) make determinations as to how the human remains and grave goods should be treated and disposed of with appropriate dignity.

The Tribe shall complete its inspection and make its MLD recommendation within forty-eight (48) hours of getting access to the site. The Tribe shall have the final determination as to the disposition and treatment of human remains and grave goods. Said determination may include avoidance of the human remains, reburial on-site, or reburial on tribal or other lands that will not be disturbed in the future.

The Tribe may wish to rebury said human remains and grave goods or ceremonial and cultural items on or near the site of their discovery, in an area which will not be subject to future disturbances over a prolonged period of time. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b).

The term "human remains" encompasses more than human bones because the Tribe's traditions call for the burial of associated cultural items with the deceased (funerary objects), and/or the ceremonial burning of Native American human remains, funerary objects, grave goods and animals. Ashes, soils and other remnants of these burning ceremonies, as well as associated funerary objects and unassociated funerary objects buried with or found near the Native American remains are to be treated in the same manner as bones or bone fragments that remain intact.

IV. Non-Disclosure of Location of Reburials

Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, Cal. Govt. Code § 6250 et seq. The Medical Examiner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). The Tribe will require that the location for reburial is recorded with the California Historic Resources Inventory System ("CHRIS") on a form that is acceptable to the CHRIS center. The Tribe may also suggest that the landowner enter into an agreement regarding the confidentiality of site information that will run with title on the property.

V. Treatment of Cultural Resources

Treatment of all cultural items, including ceremonial items and archeological items will reflect the religious beliefs, customs, and practices of the Tribe. All cultural items, including ceremonial items and archeological items, which may be found at a Project site should be turned over to the Tribe for appropriate treatment, unless otherwise ordered by a court or agency of competent jurisdiction. The Project Proponent should waive any and all claims to ownership of

Tribal ceremonial and cultural items, including archeological items, which may be found on a Project site in favor of the Tribe. If any intermediary, (for example, an archaeologist retained by the Project Proponent) is necessary, said entity or individual shall not possess those items for longer than is reasonably necessary, as determined solely by the Tribe.

VI. Inadvertent Discoveries

If additional significant sites or sites not identified as significant in a Project environmental review process, but later determined to be significant, are located within a Project impact area, such sites will be subjected to further archeological and cultural significance evaluation by the Project Proponent, the Lead Agency, and the Tribe to determine if additional mitigation measures are necessary to treat sites in a culturally appropriate manner consistent with CEQA requirements for mitigation of impacts to cultural resources. If there are human remains present that have been identified as Native American, all work will cease for a period of up to 30 days in accordance with Federal Law.

VIII. Work Statement for Tribal Monitors

The description of work for Tribal monitors of the grading and ground disturbing operations at the development site is attached hereto as Addendum I and incorporated herein by reference.

YOCHA DEHE
CULTURAL RESOURCES

ADDENDUM I

Yocha Dehe Wintun Nation
Tribal Monitors
Description of Work and Treatment Protocol

I. Preferred Treatment
The preferred protocol upon the discovery of Native American human remains is to (1) secure the area, (2) cover any exposed human remains or other cultural items, and (3) avoid further disturbances in the area.

II. Comportment
All parties to the action are strongly advised to treat the remains with appropriate dignity, as provided in Public Resource Code Section 5097.98. We further recommend that all parties to the action treat tribal representatives and the event itself with appropriate respect. For example, jokes and antics pertaining to the remains or other inappropriate behavior are ill advised.

III. Excavation Methods
If, after the Yocha Dehe Tribal representative has been granted access to the site and it is determined that avoidance is not feasible, an examination of the human remains will be conducted to confirm they are human and to determine the position, posture, and orientation of the remains. At this point, we recommend the following procedures:

(A) Tools. All excavation in the vicinity of the human remains will be conducted using fine hand tools and fine brushes to sweep loose dirt free from the exposure.

(B) Extent of Exposure. In order to determine the nature and extent of the grave and its contents, controlled excavation should extend to a full buffer zone around the perimeter of the remains.

(C) Perimeter Balk. To initiate the exposure, a perimeter balk (especially, a shallow trench) should be excavated, representing a reasonable buffer a minimum of 10 cm around the maximum extent of the known skeletal remains, with attention to counter-intuitive discoveries or unanticipated finds relating to this or other remains. The dirt from the perimeter balk should be bucketed, distinctly labeled, and screened for cultural materials.

(D) Exposure Methods. Excavation should then proceed inward from the walls of the balk as well as downward from the surface of the exposure. Loose dirt should be scooped out and brushed off into a dustpan or other collective device. Considerable care should be given to ensure that human remains are not further impacted by the process of excavation.

(E) Provenience. Buckets, collection bags, notes, and tags should be fully labeled per provenience, and a distinction should be made between samples collected from: (1) **Perimeter Balk** (described above), (2) **Exposure** (dirt removed in exposing the exterior/burial plan and associations, and (3) **Matrix** (dirt from the interstices between bones or associations). Thus, each burial may have three bags, "Burial 1 Perimeter Balk," "Burial 1 Exposure Balk," "Burial 1 Matrix."

Please note the provisions below with respect to handling and conveyance of records and samples.

(F) Records. The following records should be compiled in the field: (1) a detailed scale drawing of the burial, including the provenience of and full for all human remains, associated artifacts, and the configuration of all associated phenomena such as burial pits, evidence for preinterment grave pit burning, soil variability, and intrusive disturbance, (2) complete a formal burial record using the consultants proprietary form or other standard form providing information on site #, unit or other proveniences, level depth, depth and location of the burial from a fixed datum, workers, date(s), artifact list, skeletal inventory, and other pertinent observations, (3) crew chief and worker field notes that may supplement or supercede information contained in the burial recording form, and (4) photographs, including either or standard photography or high-quality (400-500 DPI or 10 MP recommended) digital imaging.

(G) Stipulations for Acquisition and Use of Imagery. Photographs and images may be used only for showing location or configuration of questionable formation or for the position of the skeleton. They are not to be duplicated for publication unless a written release is obtained from the Tribe.

(H) Association. Association between the remains and other cultural materials should be determined in the field in consultation with an authorized Tribal representative, and may be amended per laboratory findings. Records of provenience and sample labels should be adequate to determine association or degree of likelihood of association of human remains and other cultural materials.

(I) Samples. For each burial, all **Perimeter Balk** soil is to be 1/8"-screened. All **Exposure** soil is to be 1/8"-screened, and a minimum of one 5-gallon bucket of excavated but unscreened Exposure soil is to be collected, placed in a plastic garbage bag in the bucket. All **Matrix** soil is to be carefully excavated, screened as appropriate, and then collected in plastic bags placed in 5-gallon buckets.

(J) Human remains are not to be cleaned in the field.

(K) Blessings. Prior to any physical action related to human remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for insuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

IV. Lab Procedures

No laboratory studies are permitted without consultation with the tribe. Lab methods are determined on a project-specific basis in consultation with Yocha Dehe Wintun Nation representatives. The following procedures are recommended:

(A) Responsibility. The primary archaeological consultant will be responsible for insuring that all lab procedures follow stipulations made by the Tribe.

(B) Blessings. Prior to any laboratory activities related to the remains, a designated tribal representative will conduct prayers and blessings over the remains. The archaeological consultant will be responsible for insuring that individuals and tools involved in the action are available for traditional blessings and prayers, as necessary.

(C) Physical Proximity of Associations. To the extent possible, all remains, associations, samples, and original records are to be kept together throughout the laboratory process. In particular, **Matrix** dirt is to be kept in buckets and will accompany the remains to the lab. The primary archaeological consultant will be responsible for copying all field records and images, and insuring that the original notes and records accompany the remains throughout the process.

(*E) Additional Lab Finds*. Laboratory study should be done making every effort to identify unanticipated finds or materials missed in the field, such as objects encased in dirt or human remains misidentified as faunal remains in the field. In the event of discovery of additional remains, materials, and other associations the tribal representatives are to be contacted immediately.

V. Re-internment without Further Disturbance

No laboratory studies are permitted on human remains and funerary objects. The preferred treatment preference for exhumed Native American human remains is reburial in an area not subject to further disturbance. Any objects associated with remains will be reinterred with the remains.

YOCHA DEHE
CULTURAL RESOURCES

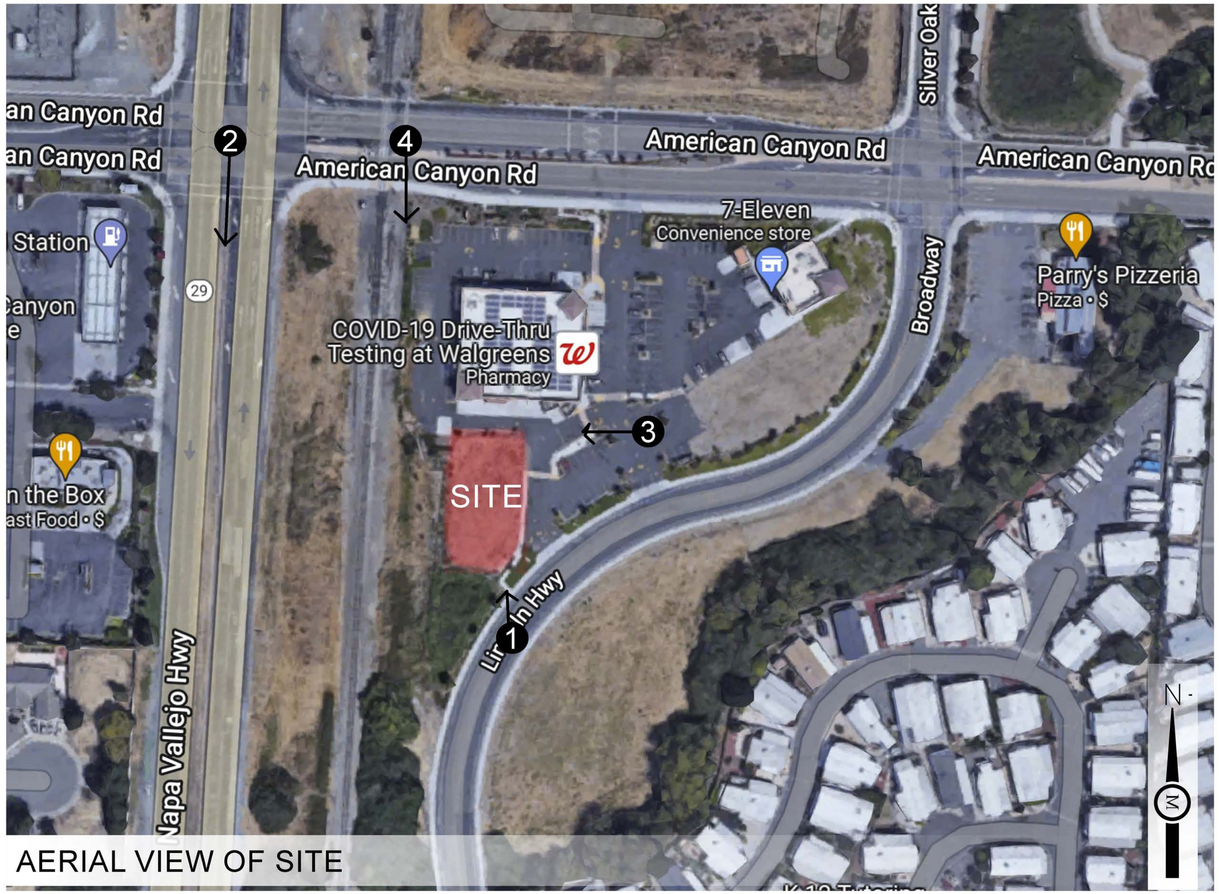
VI. Curation of Recovered Materials

Should all, or a sample, of any archaeological materials collected during the data recovery activities – with the exception of Human Remains – need to be curated, an inventory and location information of the curation facility shall be given to tribe for our records.

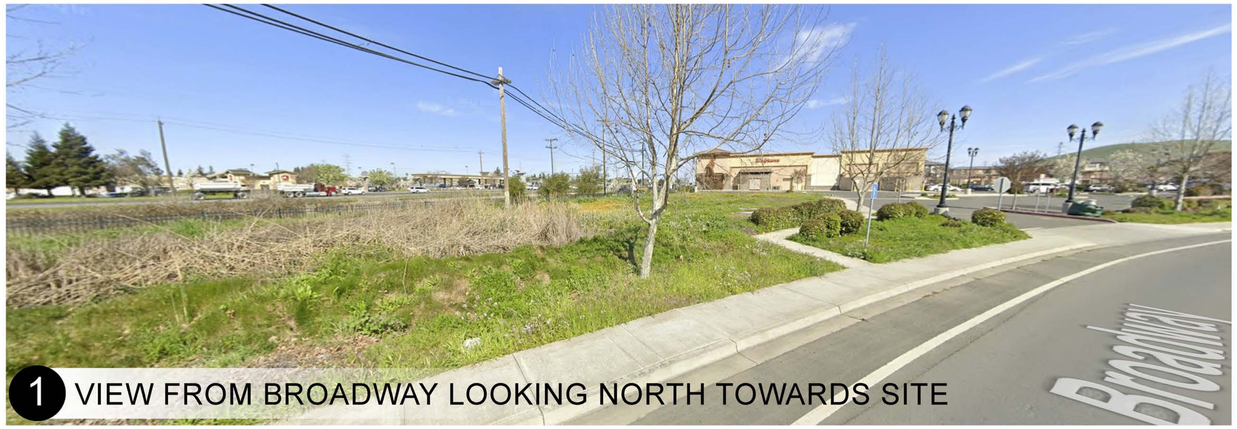
Chicken Guy Restaurant Vicinity Map

ATTACHMENT 2

ATTACHMENT 3

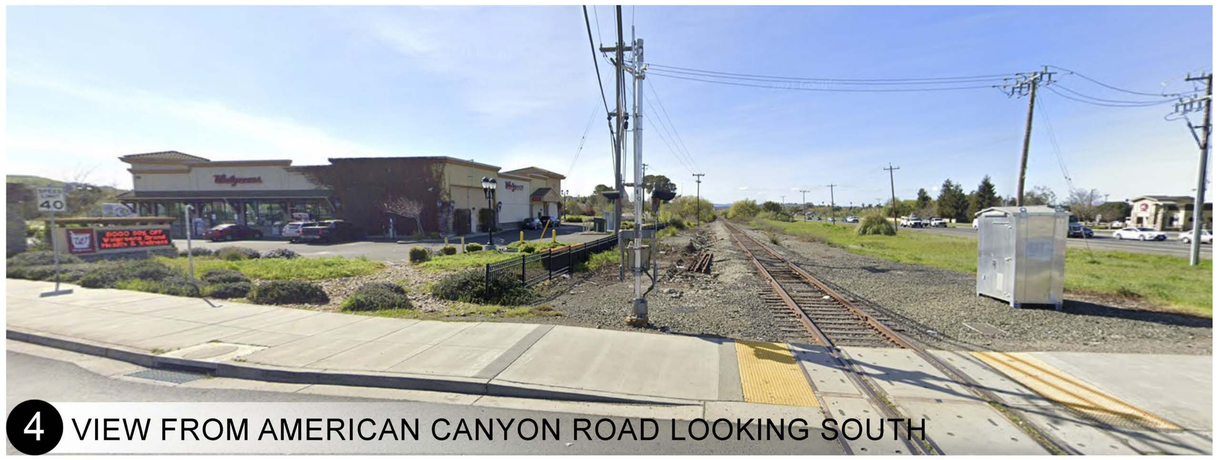


AERIAL VIEW OF SITE



1 VIEW FROM BROADWAY LOOKING NORTH TOWARDS SITE

2 VIEW FROM INTERSECTION OF AMERICAN CANYON ROAD AND HWY 29



4 VIEW FROM AMERICAN CANYON ROAD LOOKING SOUTH

3 VIEW FROM PARKING LOT ON NEIGHBORING SITE

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CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

SITE PHOTOGRAPHS 2

8-12-22

ATTACHMENT 4

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CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

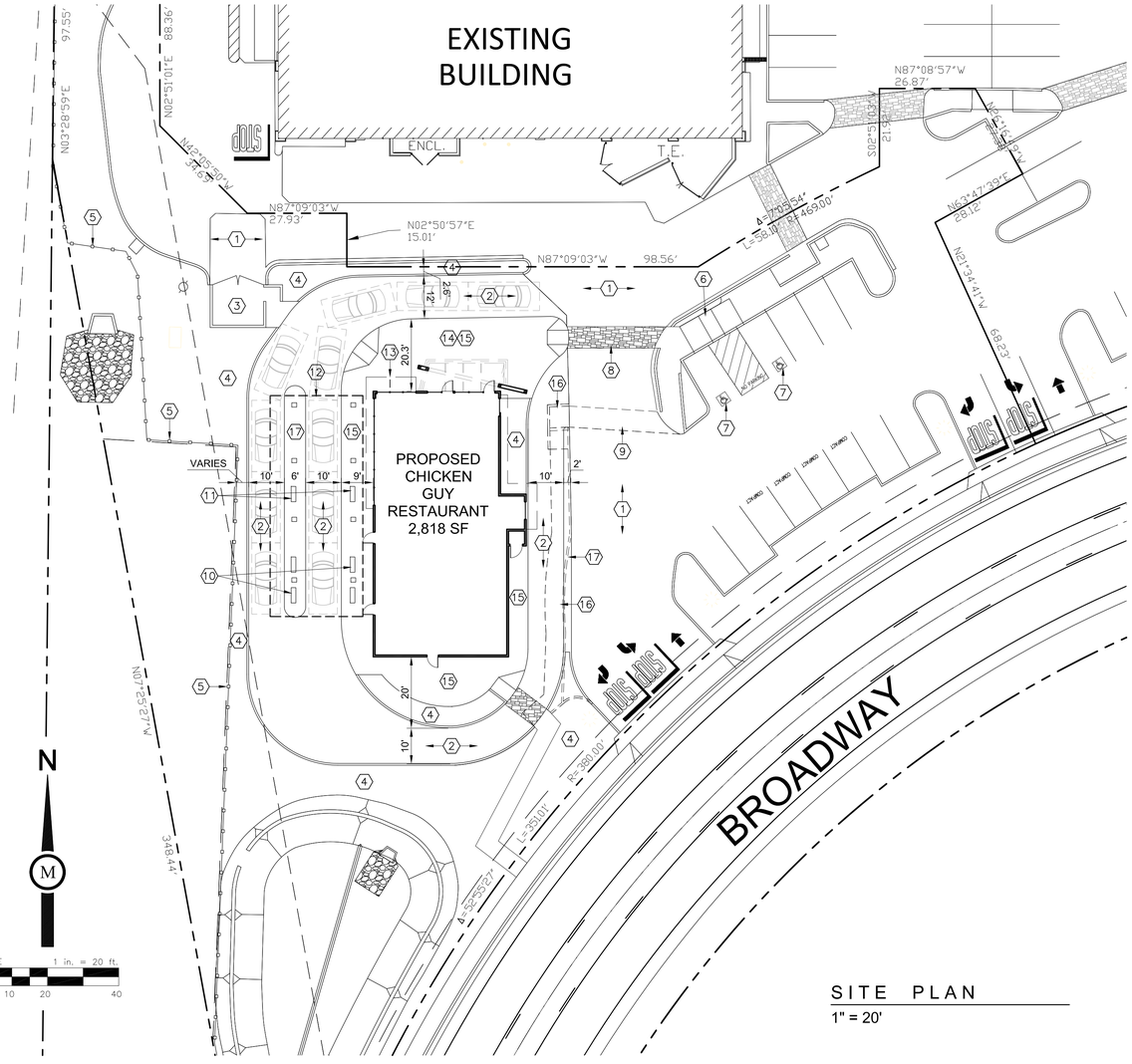
RENDERING 12

8-12-22

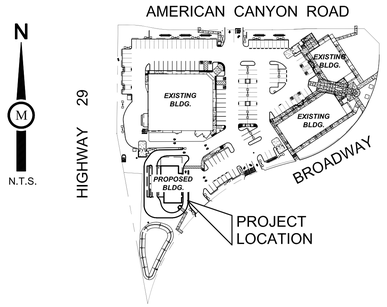
ATTACHMENT 5

CHICKEN GUY RESTAURANT

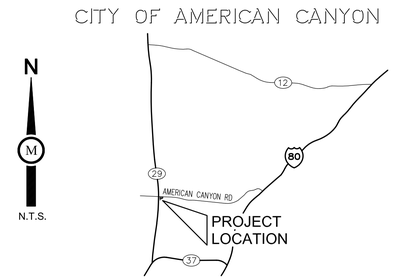
PARCEL 3 (26 PM 76)
AMERICAN CANYON, CA 94503
A.P.N. 059-110-056-000



SITE PLAN
1" = 20'



LOCATION MAP
NOT TO SCALE



VICINITY MAP
NOT TO SCALE

CONSTRUCTION NOTES

1. EXISTING PAVEMENT TO REMAIN
2. NEW PORTLAND CEMENT CONCRETE PAVEMENT
3. NEW 15' WIDE x 12' DEEP COVERED TRASH ENCLOSURE
4. NEW LANDSCAPE AREA
5. EXISTING DECORATIVE WROUGHT IRON FENCE TO REMAIN
6. REMOVE EXISTING SIDEWALK AS REQUIRED FOR NEW ACCESSIBLE RAMPS
7. NEW ACCESSIBLE PARKING SPACE PER ADA REQUIREMENTS
8. NEW STAMPED CONCRETE WALK (MATCH EXISTING)
9. REMOVE EXISTING STAMPED CONCRETE WALK, REPLACE WITH NEW ASPHALT PAVING (MATCH EXISTING)
10. NEW MENU BOARD (TYP. OF 2)
11. NEW PRE-ORDER MENU BOARD (TYP. OF 2)
12. NEW OVERHEAD CANOPY
13. NEW BICYCLE RACK PER CITY STDS.
14. NEW OUTDOOR SEATING AREA
15. NEW PORTLAND CEMENT CONCRETE SIDEWALK
16. REMOVE EXISTING SIDEWALK AS REQUIRED FOR NEW IMPROVEMENTS
17. NEW RAISED CURB MEDIAN

PROPERTY DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF AMERICAN CANYON, COUNTY OF NAPA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 3, AS SHOWN ON THE PARCEL MAP FILED OCTOBER 19, 2011, IN BOOK 26 OF PARCEL MAPS AT PAGES 75 AND 76, IN THE OFFICE OF THE COUNTY RECORDER OF NAPA COUNTY.

APN 059-110-056-000

SITE UTILITIES

SEWAGE DISPOSAL:	CITY
WATER SUPPLY:	CITY
DRAINAGE:	CITY

APPLICANT

JOTI SINGH CHANDI
CHANDI HOSPITALITY GROUP
537 4TH STREET, SUITE A
SANTA ROSA, CA 95401
PHONE: 925-348-2693

LOT DATA:

A.P.N.:	059-110-056-000
TOTAL ACREAGE:	44,853 SF (1.03 AC)
EXISTING PARCELS:	1
PROPOSED PARCELS:	1
EXISTING ZONE:	CN NEIGHBORHOOD COMMERCIAL
PROPOSED ZONE:	SAME
EXISTING USE:	VACANT-UNDEVELOPED
PROPOSED USE:	DRIVE THRU RESTAURANT

SITE COVERAGE

RESTAURANT:	2,818 SF (6.3%)
LANDSCAPE AREA:	4,540 SF (10.1%)
PAVED SURFACE AREA:	37,495 SF (83.6%)

PARKING DATA:

DRIVE THRU RESTAURANT (2,818 SF): (2,818 SF / 100 SF):	29
REQUIRED:	29 SPACES
STANDARD PARKING SPACE (9'x18')	13 SPACES
RECIPROCAL PARKING SPACE (9'x18')	14 SPACES
ACCESSIBLE PARKING SPACE (9'x18')	2 SPACES
PROVIDED:	29 SPACES

SHEET INDEX

Milestone Associates Imagineering, Inc.
1000 Lincoln Road, Suite H202, Yuba City, CA 95991
(530) 755-4700

CHICKEN GUY RESTAURANT
AMERICAN CANYON, CALIFORNIA

SITE PLAN / PROJECT DATA 1

08-22-22

Attachment 6

JOINT OVERHEAD POLE NO.1

AMERICAN CANYON ROAD

(E) PL

JOINT OVERHEAD POLE NO.2

PGE OVERHEAD POLE NO.6

HWY 29

CALTRANS

SPRR

(E) PL

WALGREENS
PARCEL 1
26PM76

7-11

ATT OVERHEAD POLE NO.3, REQUIRED TO BE UNDERGROUNDED

ON-SITE OVERHEAD UTILITIES REQUIRED TO BE UNDERGROUNDED SHOWN IN YELLOW (APPROXIMATELY 360 LINEAR FEET)

PGE OVERHEAD POLE NO.7

PGE OVERHEAD POLE NO.8

PARCEL 3
26PM76

BROADWAY

(E) PL

ATT OVERHEAD POLE NO.4, REQUIRED TO BE UNDERGROUNDED

(E) PL

ATT OVERHEAD POLE NO. 10, REQUIRED TO BE UNDERGROUNDED

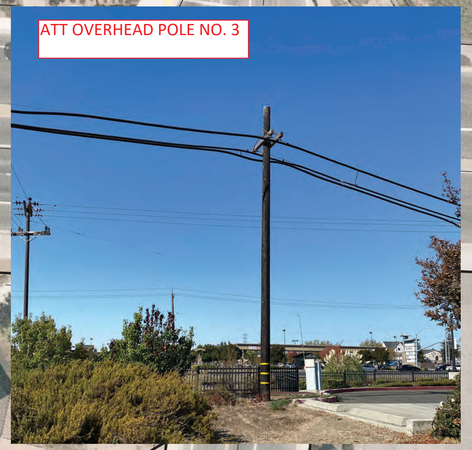
(E) PL

CITY
A.C.

PGE OVERHEAD POLE NO.9

ATT OVERHEAD POLE NO.5

ATT OVERHEAD POLE NO. 3



ATT OVERHEAD POLE NO. 4

ATT OVERHAD POLE NO. 10

Chicken Guy Restaurant Project Comments

Date * 03/07/2023

Name * Tom Gardner

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: American Canyon

State / Province / Region: CA

Postal / Zip Code: 94503

Country: United States

Comments *

If comments are being provided through the upload of a document, please indicate so.

I would like to see this move forward WITH the drive through as designed. We are moving to electric vehicles and better smog control all around us. there would still be some pollution as we park and then restart our vehicles after getting food. A well designed drive through that does not block traffic will be the best for American Canyon moving forward. thank you

File Upload

Chicken Guy Restaurant Project Comments

Date * 03/03/2023

Name * Renee

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: American Canyon

State / Province / Region: CA

Postal / Zip Code: 94503

Country: USA

Comments *

If comments are being provided through the upload of a document, please indicate so.

Yes! More food options for Am Can.

File Upload

From: Donna Ryan
To: William He
Subject: Re: [External] Housing Element Annual Report Comments
Date: Friday, February 24, 2023 11:10:41 AM

Good morning William

I strongly oppose the project for a few reasons, I live in Entrada Circle, the housing estate behind the trailer park and I have big concerns that we will be smelling this fast-food restaurant 24/7 when it is open. I do not think that our area needs another fast-food restauant, we all ready have Jack In The Box across the road in the Safeway parking lot & Parrys Pizzeria right beside the proposed location. The proposed location is also on a bend on the road, this would pose to be a safety risk for our children as they walk to school or to the parks & shops close by.

Thanks
Donna

From: William He <whe@cityofamericancanyon.org>
Sent: Thursday, February 16, 2023 4:51 PM
To: [redacted]
Subject: FW: [External] Housing Element Annual Report Comments
Hi Donna,
Staff received your comment regarding Housing Element annual report. Can you provide some more detail about why you're in opposition to the project?
Thank you,

William He, AICP
Senior Planner, Community Development Department
City of American Canyon | 4381 Broadway Street, Suite 201 | American Canyon, CA 94503
707 647 4337 | whe@cityofamericancanyon.org
www.cityofamericancanyon.org

From: Laserfiche Notification <donotreply@laserfiche.com>
Sent: Friday, February 10, 2023 12:00 PM
To: Brent Cooper <bcooper@cityofamericancanyon.org>; William He <whe@cityofamericancanyon.org>; Nicolle Hall <nhall@cityofamericancanyon.org>
Subject: [External] Housing Element Annual Report Comments
A comment form has been submitted for the Housing Element Annual Report.

From:	Davet Mohammed
To:	William He
Subject:	Fwd: [External] No approval for Chicken Guy drive thru
Date:	Wednesday, February 22, 2023 3:18:42 PM
Attachments:	idling_personal_vehicles (1).pdf 022323 Chicken Guy comments AmCanPlanningCommission[79] (1).docx

I received this email.

Davet Mohammed
Commissioner - Planning, Planning Commission
City of American Canyon | 4381 Broadway Street, Suite 201 | American Canyon, CA 94503
707 315 3084 | dmohammed@cityofamericancanyon.org |
www.cityofamericancanyon.org | www.facebook.com/CityofAmericanCanyon

---

From: Marilyn Knight-Mendelson <[redacted]com>
Sent: Wednesday, February 22, 2023 9:33:05 AM
To: dmohammed@cityofamericancanyon.org <dmohammed@cityofamericancanyon.org>
Subject: Fwd: [External] No approval for Chicken Guy drive thru

Subject: No approval for Chicken Guy drive-thru lane

Commissioner Mohammed,
Napa Climate Now! has a strong conviction that a drive-thru lane at the proposed Chicken Guy restaurant in American Canyon is detrimental to the environment because of idling vehicle engines. I plan to offer public comment about this issue at the Planning Commission meeting. As well as attaching the text of my comments, I have forwarded a fact sheet from the Dept. of Energy on the harmful effects of idling engines to people and the environment.
Marilyn Knight-Mendelson
Co-Chair, Napa Climate Now!

February 19, 2023

To: American Canyon Planning Commissioners

From: Napa Climate NOW! Steering Committee

Re: February 23 Planning Commission Meeting –
Item 3. Chicken Guy Restaurant Conditional Use Permit

Dear Planning Commissioners,

American Canyon has been making progress on providing a more cohesive, resident-focused commercial area. The Chicken Guy permit process gives you another opportunity. Instead of allowing this to become yet another chicken tenders fast-food drive-through, ask how this project can be altered to benefit the community.

Drive-through restaurants pose a serious environmental and climate hazard, as well a health risk to the community. Idling emissions include harmful chemicals, greenhouse gases, and particle pollution ("soot"). As summarized by the Department of Energy, "Idling for more than 10 seconds uses more fuel and produces more emissions that contribute to smog and climate change than stopping and restarting your engine." As a result, communities around California and the world are staking out "idle-free zones," and seven U.S. states already have regulations or laws limiting idling for all motor vehicles.

Now that American Canyon has officially declared a Climate Emergency Resolution, with the goal of having net zero climate pollution by 2030, it is time to rethink our options. Please ask yourselves:

Can the Chicken Guy be a successful walk-up, dine-in restaurant like the Chicken Guy locations in 8 other cities (Atlantic City, NJ, Pittsburgh, PA, Gatlinburg, TN, Nashville, TN, Disney Springs, FL, Fedex Field, MD, Santa Clara, CA, and Miami, FL)?

Can it provide an attractive outdoor meeting-and-eating area and serve as a de facto community center like the Starbucks next to Safeway?

Can it offer EV chargers to further serve the community?

Can it go one step further, becoming as an "Earth Friendly Eatery" by using reusable foodware in-house and compostable or recyclable ware for take-out to eliminate its contribution to American Canyon's landfill waste?

This restaurant will be located on a very visible, very desirable site. Be proud of American Canyon and our community. Ask this project, and all projects that come before you, how they can help the City meet its climate goals and be a true community asset.

Idling Reduction for Personal Vehicles

Idling your vehicle—running your engine when you're not driving it—truly gets you nowhere. Idling reduces your vehicle's fuel economy, costs you money, and creates pollution. Idling for more than 10 seconds uses more fuel and produces more emissions that contribute to smog and climate change than stopping and restarting your engine does.

Researchers estimate that idling from heavy-duty and light-duty vehicles combined wastes about 6 billion gallons of fuel annually. About half of that is attributable to personal vehicles, which generate around 30 million tons of CO_2 every year just by idling. While the impact of idling may be small on a per-car basis, the impact of the 250 million personal vehicles in the U.S. adds up. For saving fuel and reducing emissions, eliminating the unnecessary idling of personal vehicles would be the same as taking 5 million vehicles off the roads.

Modern Cars Don't Need To Idle

Advances in vehicle technology have made it easier than ever to avoid idling. Current vehicle owner's manuals, which contain information on how to get the best and most economical performance, often recommend avoiding idling.

In today's vehicles, driving the vehicle helps the engine reach its ideal operating temperature faster than idling it. The catalytic converter, which reduces emissions, operates much sooner if the car is driven. Even on the coldest days, most manufacturers recommend avoiding idling and driving off gently after running the vehicle for about 30 seconds. Not only will the engine warm up faster by being "at work," but the car's interior will warm up more quickly as well. Similarly, today's gasoline and diesel vehicles do not suffer damage by being turned on and off. Starters and batteries are much more durable now than they were in the past.

Consider Your Circumstances

Drive-through lines are a common place for vehicles to idle. If a line at a drive-through restaurant, pharmacy, or bank is long, consider turning off your car while you wait or parking and

Personal-vehicle idling wastes about 3 billion gallons of fuel—generating around 30 million tons of CO_2 annually in the U.S. *Photo from Shutterstock (12004621).*

going inside. Likewise, when waiting for passengers, consider the weather. If the temperature is moderate, turning off your engine makes sense. It's especially important for caregivers waiting to pick up schoolchildren to minimize idling, because vehicle emissions are more concentrated near the ground, where children breathe. Poor air quality can contribute to asthma and other ailments, and children's lungs are more susceptible to damage than adults' lungs are.

There are a few circumstances where idling is hard to avoid. When waiting in traffic, you must keep your car running for safety reasons. In winter, you may need to idle to defrost your windows. When bringing your car for vehicle emissions testing, your inspection station may require that you idle to keep your engine at operating temperature.

Drive-through windows are an opportunity to reduce idling. Idling for more than 10 seconds uses more fuel and creates more CO_2 than turning off and restarting your engine. *Photo from Shutterstock (38753656).*

Clean Cities
U.S. Department of Energy

Idling May Even Be Illegal

If money wasted and pollution don't provide enough reasons to avoid idling, some jurisdictions have laws against it. You could be subject to a fine if you idle unnecessarily in:

- New York City
- Massachusetts
- Maryland
- New Hampshire
- New Jersey
- Vermont
- Hawaii
- Parts of California, Colorado, New York, Ohio, Utah, and other states

Check Clean Cities' IdleBase for a list (cleancities.energy.gov/idlebase) of local and state regulations to see whether your area has laws that restrict idling.

Clean Cities supports idling reduction through its online toolkit, IdleBox (cleancities.energy.gov/idlebox).

Solutions To Minimize Idling

For everyday drivers, the best way to reduce idling is to simply turn the key when stopped for 10 seconds or more, except in traffic. Driving a hybrid-electric vehicle makes idle reduction even easier. Hybrids shut off the engine when they are not moving and even enable slow movement with the engine off. "Mild hybrid" or stop-start technology, which is increasingly available in a number of vehicles, also eliminates idling when the car is stopped.

Idling is not a problem restricted to personal vehicles. Reducing idling in a number of community vehicles, such as school buses, taxis, police cruisers, and ambulances, can bring even bigger benefits. While emergency vehicles are usually exempt from idling regulations, these vehicles can be equipped with devices that provide power and comfort in engine-off mode. For example, police cars can use automatic start-stop devices and school buses can be equipped with block heaters to warm the engines in the morning.

Reducing idling at schools is especially helpful for protecting the health of children. *Photo from Shutterstock (157939259).*

Schools Offer Unique Opportunities

As communities are often concerned about the effects of poor air quality on children, many anti-idling campaigns have targeted diesel-powered school buses. To protect public health, school districts nationwide have enacted policies and trained drivers on idle-reduction techniques. There are several sources of information on designing a campaign that works for your school, many of which teachers can use as environmental education teaching tools. The U.S. Environmental Protection Agency's Clean School Bus USA (epa.gov/cleandiesel/sector-programs/csb-overview.htm) program can help parents and school districts reduce idling. In addition to improving air quality, minimizing idling can save school districts money by reducing the vehicles' fuel cost and engine wear.

Everyone Can Contribute

Contact your local Clean Cities coalition (cleancities.energy.gov). These coalitions work to reduce petroleum use in transportation with the support of the U.S. Department of Energy.

- Talk to the principal of your child's school to ask that anti-idling signs be posted where school buses and parents' vehicles wait.
- Work with your school board on a district-wide anti-idling campaign.
- Talk to managers of local drive-through businesses about idling's air-quality impacts and suggest that signs be posted to remind patrons not to idle.

There are a number of ways drivers can reduce their own idling and encourage others to do the same.

U.S. DEPARTMENT OF ENERGY
Energy Efficiency & Renewable Energy

For more information, visit: cleancities.energy.gov

Prepared by Argonne National Laboratory,
a U.S. Department of Energy laboratory managed by UChicago Argonne, LLC.

DOE/CHO-AC-06CH11357-1502 • May 2015

Lori Stelling at February 22, 2023 at 12:11pm PST

Oppose

Dear City of American Canyon Planning Commissioners,

As the parent of a Napa teen and someone who's been involved in climate advocacy since my son was 9 and I began to understand the full extent of the climate emergency, I do my best to stay abreast of past and present decisions made by jurisdictions throughout our county on fossil fuel station and drive-thru development, with an eye on supporting pathways that help each jurisdiction meet their goal of net zero climate pollutants by 2030.

My family is deeply grateful for the City of American Canyon's decision to put a moratorium on future fossil fuel station development, paving the way for other cities and towns throughout the Bay Area and the US to do the same.

At this time, it's drive-thru development that's on the table. If new drive-thrus continue to be developed in 2023, such as the proposed Chicken Guy Restaurant Drive Thru, I am concerned that we adults will be sending the message to our youth that we value convenience today over their chance at a livable future tomorrow. For me, as a parent, it's not just about the carbon emissions that each new drive-thru will invite and produce, it's about the type of lifestyle that drive-thrus encourage (a lifestyle that we must begin to let go of if we're going to have a chance at healing this crisis and giving our children hope). It's also of concern to me that if the City of American Canyon, which has a gas station ban, allows new drive-thru development, this may actually discourage other jurisdictions from banning future drive-thru development that would support them in meeting their goal of net zero climate pollutants by 2030. To me, a ban on future gas stations and a ban on future drive-thrus go hand in hand.

For all of these reasons, I urge you to deny approval of this drive-thru application and consider the possibility of a walk-up, dine-in Chicken Guy Restaurant. We know that encouraging cars to idle is unacceptable practice at this point in the climate crisis (schools are already creating idle-free zones), and we must choose a pathway forward that encourages a sustainable lifestyle and brings our youth hope. If every city, town and county do their part, step-by-step, I do believe we can create the kind of active and engaged hope that must become mainstream for healing to be possible.

Thank you for your consideration of this important climate issue and for your care of your community.

Sincerely,

Lori Stelling

February 22, 2023

Planning Commission Members and Councilmembers,

I applaud a position that you took a while back when American Canyon was considering more gas stations. I believe you said, “We’ve got to believe in global warming today.” And I very much appreciate your aiming high for the City of American Canyon when you said, in the same meeting, “We have the potential to be more than gas stations and fast food stores.” I don’t need to tell you that another fast food restaurant is not the development that will bring living wage jobs to American Canyon.

Here’s some information for you to consider as you weigh this decision:

Cities across the country and abroad have adopted or are considering bans on drive-throughs to address air pollution and climate change. Following are some links that provide useful information about why this is becoming an increasingly common action for cities.

This article states that other cities within the state and across the country are already banning the construction of fast food drive through restaurants and establishing measures to reduce idling and explains why. Idling for more than 10 seconds uses more fuel and produces more emissions than restarting your engine.

- https://www.weforum.org/agenda/2019/10/fast-food-cities-ban-drive-throughs-restaurants-climate-change-air-pollution/

This article describes the health risks of drive through restaurants.

- https://theconversation.com/drive-throughs-are-busier-than-ever-during-the-pandemic-but-theyre-hotspots-for-air-pollution-148031

This article indicates that 70% of fast food sales in the US are made via drive-through restaurants.

- https://www.inverse.com/science/uk-drive-through

I wonder if you’re looking forward to how we will share the costs of reducing our climate foot print. Some communities are already acting to ban gas ranges, and, more recently, there is increasing discussion about the need to eliminate gas heaters for residences. If your homeowners are asked or required by state, county or city regulations to replace expensive appliances, how will they feel as they drive by the franchise drive-through? These drive-through franchises are not exactly small Mom & Pop businesses and, instead, may require seven figures funding to start up. Is it really fair to continue to permit new businesses to generate a disproportionate amount of pollutants with no financial impact and then ask your constituents to fund the projects needed to fight climate change? I don’t think so.

One other consideration - traffic flow: This Burbank video shows what happened when Raising Cane opened: https://www.nbclosangeles.com/on-air/new-raising-canes-causing-traffic-mess-in-burbank/2923773/. Lines of cars and no parking for neighboring businesses. I have read about other examples in other parts of Southern California where the line of traffic made it difficult to enter the freeway, but I thought this televised video best demonstrates the problem.

I urge you to keep your promise to your community and to move toward climate neutrality. Approving this permit would amount to digging the hole deeper, as opposed to climbing out.

Celeste Mirassou

Chicken Guy Restaurant Project Comments

Date *	02/16/2023
Name *	Bayard Fox
Company	BFS LLC
Email *	[redacted]
Phone Number *	[redacted]
Address *	Street Address [redacted] Address Line 2 City: Napa State / Province / Region: CA Postal / Zip Code: 94558 Country: United States
Comments *	If comments are being provided through the upload of a document, please indicate so. See attachment
File Upload	American Canyon Drive Thru proposal 2023.docx 13.34KB

Dear Planning Commissioners and Planner He,

We are writing to you to bring your attention to a significant issue in conflict with the City of American Canyon's Climate Emergency Resolution. The Climate Emergency Resolution commits to evaluate all planning and policy decisions through the lens of the pledge of Net Zero Climate Pollution by or before 2030.

A drive-through window at the proposed Chicken Guy restaurant would increase greenhouse gas emissions from idling vehicles.

The Draft Napa Regional 2019 GHG Inventory prepared for the Countywide Climate Action Committee shows that on-road emissions due to vehicles make up 54% of American Canyon's total emissions. (Idling cars account for over 1.6% of total greenhouse gas emissions; see US Dept. of Energy citation). The proposed drive-through will increase emissions and result in unavoidable negative impacts on air quality.

According to Idle Free California, idling vehicles burn more than 300 million gallons of fuel annually, emitting more than 3 million tons of CO2 and other climate pollutants. The EPA states that idling for more than 10 seconds exceeds the emissions from stopping and restarting a vehicle. The restaurant industry publication QSR Magazine, stated that in 2019 wait times at a leading fast food chain average 5 minutes and 22 seconds per vehicle. It appears the site will have more than one lane, increasing the potential for more vehicles and more idling.

The pandemic has revealed the solution: expand curbside and walk-up service. The chain has several outlets (Gatlinburg, TN, Nashville, TN, Landover, MD, Santa Clara, CA) that don't have a drive-through window, indicating that other methods of food delivery work well for this restaurant.

Thank you for your time and consideration.

Bayard Fox

Napa Climate Now

Chicken Guy Restaurant Project Comments

Date * 02/13/2023

Name * Yvonne Baginski

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: Napa

State / Province / Region: CA

Postal / Zip Code: 94558

Country: United States

Comments *

If comments are being provided through the upload of a document, please indicate so.

We have a problem with idling engines. They needlessly contribute to CO2 emissions, wasted energy and an adverse impact on air quality. American Canyon already has a problem with the air pollution caused by the diesel trucks. In 2019, Napa County estimated that 67 percent of greenhouse gas emissions were caused by diesel trucks. Much of this truck traffic is concentrated in American Canyon. While the City brags of its family friendly standards, and good schools, there is some discrepancy with the allowance of air quality diminishment due to idling traffic and traffic, in general. California recognized this issue in 2016 when the state legislature adopted ACR-160. This resolution addresses the issue of vehicular air pollution, specifically motor vehicle idling and children. It encourages motorists not to idle their motor vehicles where children are present. However, it is a resolution, not an ordinance. I would ask that the planning commission consider banning all new drive thru's in the City of American Canyon. This is a movement gaining momentum throughout the nation. But, just so the drive-thru's don't feel "picked on," I would also recommend considering limiting idling engines throughout the city, on city streets and especially in the caravan lines waiting to pick up children from schools. Many cities are enacting the "no idle" ordinance, including Santa Cruz, Palo Alto and Santa Barbara. With drive-thrus, we are seeing bans in Minneapolis, Long Beach, and many other cities. This is one way that a planning commission/city council can work together to reduce GHG emissions...which is especially crucial in these times of reduction mandates. Another thing to consider is to limit idling (to 90 seconds), in already established drive-thrus. But, let's start with a ban on new drive-thrus. Drive-thrus are most definitely an American convenience, not seen in other countries. Please consider a rejection of this drive-thru with a request to the City Council to ban all future drive-thrus.

File Upload

Brent Cooper

From: Cathelyn Atajar [redacted]
Sent: Friday, October 21, 2022 10:09 AM
To: William He
Subject: [External] Another fast food

Can we have a decent sit down restaurant instead of drive through. Jack in the Box is just across the street from where this is going to be! Too many drive through fast food! We have too many "Gas Station" and not enough family restaurants that we can be proud of. I hope you have other vendor (s) that would like to do business in American Canyon.

Cathelyn

Brent Cooper

From: Shana Ellis [redacted]
Sent: Friday, October 21, 2022 1:22 PM
To: William He
Subject: [External] WHY ANOTHER FAST FOOD RESTAURANT???????

Ughhh

Sent from my iPhone

Chicken Guy Restaurant Project Comments

Date * 01/27/2023

Name * Brian Jew

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: AMERICAN CANYON

State / Province / Region: CA

Postal / Zip Code: 94503

Country: United States

Comments *

If comments are being provided through the upload of a document, please indicate so.

I fully support this project and hope to see more restaurants and dining options come to our city.

File Upload

Chicken Guy Restaurant Project Comments

Date * 01/06/2023

Name * Mignon Benedict

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: American Canyon

State / Province / Region: CA

Postal / Zip Code: 94503

Country: United States

Comments *

If comments are being provided through the upload of a document, please indicate so.

American Canyon needs more food places to feed all the people who live here and especially those who are passing through. A great place like The Chicken Guy would only give us a better choice of food and more revenue.

File Upload

Chicken Guy Restaurant Project Comments

Date * 10/22/2022

Name * Jeff Servente

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: American Canyon

State / Province / Region: CA

Postal / Zip Code: 94503

Country: United States

Comments *

If comments are being provided through the upload of a document, please indicate so.

All for this. For those who have complained of AC's lack of food diversity, here's a chance to not blow the door open but, at least give it a good kick. With Watson Ranch around the corner, this franchise could be a win-win-win for AmCan

File Upload

Chicken Guy Restaurant Project Comments

Date * 10/21/2022

Name * James W Dickieson

Company

Email * [redacted]

Phone Number * [redacted]

Address *

Street Address

[redacted]

Address Line 2

City: American Canyon

State / Province / Region: CA

Postal / Zip Code: 94503

Country: United States

Comments *

If comments are being provided through the upload of a document, please indicate so.

That would be sooooooooo coool!!!!!!!!!!!!!!!

File Upload

LAW OFFICE OF
MARCUS J. LO DUCA
A Professional Corporation

MARCUS J. LO DUCA

November 28, 2022

Mr. Brent Cooper
Community Development Director
City of American Canyon
4381 Broadway Street, Suite 201
American Canyon, CA 94503

Re: American Canyon Road and Broadway Commercial Center (DR 07-06, MV 07-01, & TM 07-04)

Dear Mr. Cooper:

This office represents Best/American Canyon Partners, owner/developer of the American Canyon Road and Broadway Commercial Center project (the "Project") in American Canyon. As I am sure you are aware, the Project was approved as a phased project on May 22, 2008 with the above-listed entitlements, with the tentative parcel map subsequently recorded. The Project was "inaugurated" with the buildout of all site work for the entire property (the "Property"), with the first building, the Walgreens on Lot 1, completed in 2011. On October 4, 2011, a parcel map dividing Lot 2 into Lots 2A and 2B was approved by the American Canyon City Council. That parcel map was then recorded, and my client constructed in 2012 the 7-11 on what is Lot 2A. Lot 3 on the original parcel map was not changed by the subsequent parcel map on Lot 2.

My client wishes to develop the final pad building in the Project with a drive-up restaurant on Lot 3, pursuant to the above-referenced approved entitlements. However, City Planning staff recently informed my client that staff is of the opinion that the project entitlements for Lot 3 have expired. Based on both the Project's conditions of approval and relevant sections of the City Code, including the City Code section cited by staff, not to mention constitutionally protected vested development rights, we believe that staff's position is not supported, and the previously approved entitlements

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remain in place relative to Lot 3. Our analysis of both those conditions of approval and the relevant City Code provisions follows.

A. Conditions of Approval

The Project conditions of approval clearly state that "This approval shall become null and void and of no effect if the project has not been inaugurated within two years of the approval date" (Condition 6). The Project, as defined in the conditions of approval, is not development of a building on a single parcel, but "the construction of a 29,270 square foot shopping center, including a drive-through pharmacy and a drive-up restaurant…" (Condition 1). That the shopping center project so described is comprised of multiple buildings as part of the whole project and not a single building is clearly acknowledged by the City in Condition 8, which begins with the wording "The shopping center may be constructed in phases….." Condition 8 goes on to state that such phasing is approved "provided that all site work is completed with the first building to be constructed. Site work includes all the improvements, including landscaping, except the buildings and landscaping associated with individual building pads." (Emphasis added). It is beyond dispute that the all the site improvements, including landscaping, involved with the site work for the entire site were constructed in the timeframe set forth in Condition 6, except for the buildings and landscaping associated with individual building pads. Thus, the required improvements to allow the phasing of the development of each of the lots in the Project were completed consistent with the requirements of the conditions of approval.

The life of the entitlements as noted in Condition 6 required that the Project be "inaugurated within two years of the approval date." "Project inauguration" is defined in 19.04.030 of the City Code as follows:

> ""Project inauguration" means a project has been inaugurated if applicable grading and building permits have been issued, necessary infrastructure installed, foundations installed and aboveground construction initiated and ongoing without any cessations of construction activity for more than one hundred eighty days."

The site work and first building permit in the Project (for Walgreens), including the site grading and installation of infrastructure, and initiation and construction of

aboveground construction, were completed with the initial construction on the Property. Therefore, under Condition 6, the Project---the approved shopping center to be built in phases--was "inaugurated" in the timeframe called for in the conditions of approval, vesting the approved land use entitlements for the entire Project, and not just for the initial site development and construction of the Walgreens on Lot 1. It is also critical to note that the building permit for the 7-11 constructed on Lot 2A was issued by the City in 2012, four years after approval of the phased Project on May 22, 2008, and two years past the two year deadline for project inauguration set forth in Condition 6, yet the City had no issue with issuance of that building permit and construction of that building on Lot 2A pursuant to the approved entitlements for the Project, including the Design Review approved for the Project.

B. City Code

The November 17, 2022 email to my client from William He (on which you were copied) cites City Code Section 19.41.060 for support of the position that the Project entitlements for the shopping center have expired as to Lot 3. The first sentence of Section 19.41.060 simply mirrors the exact wording of Condition 6, i.e., the project approval becomes null and void and of no effect if the project for which a design permit has been approved has not been inaugurated within two year of the granting of the design permit. There is no factual dispute possible that the Project (i.e., the shopping center) was inaugurated for purposes of Section 19.41.060 and Condition 6. Interestingly, the next sentence of Section 19.41.060 states that the provision just noted above "shall not apply to applications approved in conjunction with another discretionary permit." Here, the Project had two other land use entitlements approved together with design review approval DR 07-06: a Minor Variation (MV 07-01) and a Tentative Parcel Map (TM 07-04). The provision cited in Mr. He's email is therefore inapplicable to the design review approval for the development of Lot 3 that was part and parcel of the application for land use entitlements for the Project.

Just as importantly, if staff's position that the inauguration of the Project, the site development, and the construction of buildings on two of the four parcels (with the subsequent parcel map creating Lots 2A and 2B) were not enough to effectuate, i.e., vest, the land use entitlements for the entire center, then the staff position renders the phasing provisions of Condition 9 meaningless. There is nothing in the conditions of approval or City Code that requires that all buildings in a phased project must be

constructed, i.e., inaugurated, within the first two years after a project's approval. That position would mean that a phasing condition placed on a project in the City of American Canyon has no practical force and effect at all.

Moreover, the City's own rules for the construction of language in the City's Municipal Code undermine any such position that the approved entitlements are not still in place for the development of Lot 3. As noted above, Condition 1 states what the approved project is: the construction of a 29,270 square foot shopping center, including a drive-through pharmacy and a drive-up restaurant. In other words, the singular project is defined to contain multiple buildings. Section 19.04.020.H. of the City Code states that, in interpreting the Municipal Code, "The singular number includes the plural, and the plural, the singular." Here, the singular Project includes the plural number of buildings approved with the 2008 approved entitlements. Those 2008 approved entitlements for the entirety of the phased Project as defined in the conditions were fully vested as a matter of Federal and State constitutional law, not to mention by the wording of the conditions and City Code provisions themselves, via the development of the site improvements for the entire site and the construction of the Walgreens building. Therefore, on the basis of the foregoing analysis, my client intends to proceed forward with the construction of the building on Lot 3 pursuant to the existing approved entitlements. We would request that you confirm the City's acknowledgement of this position so that the development of Lot 3 can proceed without further delay.

Very truly yours,

LAW OFFICE OF MARCUS J. LO DUCA
A Professional Corporation

Marcus J. Lo Duca

Cc: Client

January 6, 2023

VIA E-MAIL
Brent Cooper, AICP
Community Development Director
City of American Canyon
4381 Broadway Street
American Canyon, CA 94503

Re: American Canyon Road and Broadway Commercial Center Project; Communication Dated November 28, 2022

Dear Mr. Cooper:

This communication analyzes issues presented in a November 28, 2022 communication from Mr. Marcus J. Lo Duca, Attorney for Best/American Canyon Partners, the present owner/developer of partially improved real property located at the Southwest corner of the intersection of American Canyon Road and State Highway 29 (the "Property"), which was the subject of City of American Canyon ("City") land-use approvals on May 22, 2008 for the American Canyon Road and Broadway Commercial Project (the "Project").

The 2008 Project approvals included a tentative parcel map providing for three parcels in conjunction with Design Review and two Minor Variations to authorize initially four buildings on the Property which were analyzed in a Mitigated Negative Declaration ("MND") under the California Environmental Quality Act (Public Resources Code Section 21000 *et seq*., "CEQA"), as described in further detail *infra*.

Upon approval of the Final Parcel Map and further Minor Variations in 2011, building permits were issued for two of the three parcels resulting in those two parcels being improved with a Walgreens and the 7-11 store, respectively. No action was taken with respect to the third parcel for its prospective development until August of 2022.

Upon plan check review of the 2022 Application by Staff, it was determined that the original Project approvals not already developed had expired, a Staff position which Mr. Lo Duca's letter refutes.

Brent Cooper, AICP
Community Development Director
City of American Canyon
January 6, 2023

Detailed Factual Background

The Final Initial Study/Mitigated Negative Declaration ("IS/MND") prepared for the Project which analyzed a neighborhood serving-commercial center providing 29,270 square-feet of tenant space in four buildings. A Walgreens drug store, a drive-thru restaurant, and two multi-tenant "retail" buildings were analyzed for the site. The drive-thru restaurant analyzed in the environmental review is a "El Pollo Loco" restaurant of approximately 2,974 square-feet. On May 22, 2008, the Planning Commission approved the IS/MND.

On May 22, 2008, the Planning Commission approved a Project Tentative Parcel Map (TM07-04), a Design Review (07-08) and two minor variations (MV 07-04).

On December 4, 2008 a sign program was developed for the Project. Two grading permits were issued for the Walgreens parcel on September 23, 2009, and November 30, 2010. A building permit was issued for the Walgreens parcel on February 10, 2011, followed by an August 31, 2011 Certificate of Occupancy. Subsequently on October 4, 2011, the City Council approved a Project Final Map. The Final Map delineated square footage on each Building depicted (1-4) but did not note any specified use.

Subsequently, on October 26, 2011, the Final Map was amended through a Minor Modification Approval for the Project by the City Community Development Director, reducing the Project Building 2 square-footage to accommodate a 7-11 convenience store, and by increasing the Project Building 3 square-footage to equalize the approved overall Project square-footage

Later, on May 31, 2012 a building permit was issued for the 7-11, followed by the issuance of a June 6, 2012 grading permit, and an October 12, 2012 Certificate of Occupancy.

The City has no record of an issued grading or building permit for the drive-thru restaurant or any other use on Lot 3 of the Project (depicted as Building 4 on the Final Map).

Developer's Claims of Continual Project Permit Validity

Mr. Lo Duca claims that the remaining undeveloped lot of the Project can be developed ministerially due to constitutionally protected Project "vested development rights," therefore claiming that the Staff position that the undeveloped portion of the Project approval has expired is not correct.

Mr. Lo Duca's communication references the Design Review Conditions of Approval 6, 1, and 8 contending:

> … the required improvements to allow the phasing of the development of each of the lots in the Project were completed consistent with the requirements of the Conditions of Approval.

Mr. Lo Duca contends that the Project has been initiated with the completion of both the 7-11 facility on Lot 2 and the Walgreens facility on Lot 1.

Mr. Lo Duca also objects to the November 17, 2022 City Staff email to Best/American Canyon Partners, stating the City position that the drive-thru restaurant approval Design Review permit had expired. Mr. Lo Duca contends that the Project has been "inaugurated," and that the Staff position is inapplicable to the Design Review Approval of Lot 3.

More specifically, Mr. Lo Duca concludes:

> There is nothing in the Conditions of Approval or City Code that requires that all buildings in the phase Project must be constructed, i.e., inaugurated within the first 2 years after a Project's approval. That position would mean that a phasing condition placed on a project in the City of American Canyon has no practical force and effect at all.

The communication concludes:

> Those 2008 approved entitlements for the entirety of the phased Project as defined in the conditions were fully vested as a matter of Federal, State and Constitutional law, not to mention by the wording of the conditions and City Code provisions themselves via the development of site improvements for the entire site and the construction of the Walgreens building. Therefore, on the basis of the foregoing analysis, my client intends to proceed forward with the construction of the building on Lot 3, pursuant to existing approved entitlements.

Standards for Obtaining Vested Rights to Develop

The issue presented by Applicant's Counsel involves what rights have vested, if any, resulting from the Project Approvals and subsequent construction of improvements on two of the Project's three parcels.

There are three (3) ways to vest development rights in California.

First, is common-law vesting based on the seminal case of *Avco Community Developers, Inc. v. South Coast Regional Commission* (1976) 17 Cal. 3rd. 785, 793 ("*Avco*"). The *Avco* Court confirmed a vested right if a developer had obtained a validly issued building permit, completed substantial work and incurred substantial liabilities in good faith reliance on the building permit at the finished the project. Costs incurred based on a validly issued building permit, must be *hard costs* such as foundation permits for structural work and not *soft costs* such as further engineering or grading.[1]

The developers' rights that vest through reliance on the building permit, *or* a building permit in combination with other permits, *cannot be greater* than those specifically granted or approved by the involved permit. *See, Russ Bldg. Partnership v. City & County of San Francisco* (1988) 44 Cal. 3rd 839, 846, 853; *Avco*, supra 17 Cal. 3rd. at 91 (perfection of a vested right for one phase of a multi-phased project does not create a vested right to build subsequent phases).

The second method of vesting is a vesting subdivision map under the provisions of Government Code Section 66498 *et seq.* Upon approval of a vesting tentative map, then the development standards, rules and regulations that are applicable to the project involved, are those that are in effect *at the time of a vesting map application.*

The third method of vesting is a development agreement as authorized by Government Code Section 65866. In the case of a development agreement, the development standards that are applicable to the Project, are those which are "frozen" at the time of execution of the development agreement. *See, Santa Margarita Area Residents Together v. San Luis Obispo County Board of Supervisors*, 2000 (84) Cal. App. 4th. 421.

Analysis

Under the City Code,[2] a Project for which Design Review has been granted must be "inaugurated" within two years of the Design Review grant, or that permit expires:

> If the project for which a design permit has been approved pursuant to this chapter has not been inaugurated within two years of the granting of the design permit, the approval shall become null and void and of no effect. This provision shall not apply to applications approved in conjunction with another discretionary permit. In such cases, the expiration period shall coincide with that of the associated permit.

[1] *See, Hermosa Beach Stop Oil Coalition v. the City of Hermosa Beach* (2001), 86 Cal. App. 4th. 534.

[2] Municipal Code Sections are subject to the same construction as statutes. *See, C.Y. Development Co. v. City of Redlands* (1982) 137 Cal.App.3d 926, 929.

Municipal Code Section 19.41.060.A. As set forth in the Municipal Code, if another approval is approved along with another discretionary permit, the other permit's expiration period applies.

A Project is "inaugurated" when certain *applicable* ministerial permits are granted along with associated development beginning; however, inauguration can be lost if construction activity ceases for more than 180 days at a time:

> "Project inauguration" means a project has been inaugurated if ***applicable*** grading and building permits have been issued, necessary infrastructure installed, foundations installed and aboveground construction initiated and ongoing ***without any cessations of construction activity for more than one hundred eighty days***.

Municipal Code Section 19.10.030 (*emphasis added*).

Here the permit accompanying the Project Design Permit approval was a tentative parcel map (also approved May 22, 2008), which also expired in two years, unless extended by the City Council or legislation. Municipal Code Section 18.22.060; Tentative Map Condition of Approval 12.

Legislation does extend the tentative parcel map for two years, but the October 11, 2011 Final Map approval terminated that extension. Accordingly, any portion of the Project had to be inaugurated no later than October 11, 2011.

No Project "inauguration" was achieved with respect to Lot 3, the originally intended location for the El Pollo Loco (and that of the 2022 Application) within the extended time period of Project approval and thus the Project approvals expired in 2011.

The Applicant's assertions indicating that the Project was phased (due to Project Condition 6 regarding phasing) precluding application of a two-year limit, are incorrect. Design Review Condition of Approval 9 states:

> The shopping center *may be* constructed in phases, provided that all the site work is completed with the first building to be constructed. Site work includes all site improvements, including landscaping, except the buildings and landscaping associated with individual building pads *(emphasis added).*[3]

[3] Use of the term "may" in the Conditions contemplates a permissive, rather than a "mandatory" notion. *See,* Government Code Section 14.

The City routinely allows for Project phasing with respect to processing potential future discretionary applications (like Modifications) without having to bring the Project back for Planning Commission approval. This phasing does not overrule the Municipal Code admonition that the Project must have been inaugurated within two years.

In addition, the Applicant submitted no phasing plan, or any other agreement with the City that would extend inauguration beyond the two year expiration date. Nor did the Applicant timely request any permit extension under the Municipal Code.

It is emphasized that no inauguration (grading/building permits) was, or has been, sought for Lot 3 prior to August 2022 and accordingly the Lot 3 portion of the Project was not inaugurated within the expiration date of the Project approvals.

Even if the inauguration of the Walgreens and 7-11 is considered to have inaugurated *all* development on the Project, no grading or building permit or construction *had been* authorized or commenced within 180 days of the August 2022 Application for Lot 3. Stated differently, there has been no construction activity related to Lot 3 since 2012 prior to August 2022, well beyond the 180-day period referenced. Accordingly, even if development of Lot 3 was "inaugurated" in 2008, it has lost that status more than ten (10) years after the Final Map approval.

A review of the Project record shows no evidence or substantial evidence to support the conclusion that construction had been inaugurated on Lot 3 and must be vested under the previously described *Avco* standard for the entire Project, including Lot 3.

The Project approvals did not include a development agreement or a vesting subdivision map. Under common-law vesting, the *Avco* case, although building/occupancy permits were issued for other portions of the Project, none were issued for Lot 3.

Conclusion

No grading or building permit has been issued for Lot 3. Since 2012 there has been no construction activities on the overall Project. Accordingly, under the City Municipal Code, the Design Review granted for Lot 3 become null and void 180 days after Final Map approval date, or at the latest 180 days after the last construction on the 7-11.

There have been no vested rights to maintain any such permit as: 1) there is no building permit and construction on Lot 3 to vest any common law rights; 2) the Project does not include a *vesting* map; and, 3) there is no Development Agreement extending Project entitlements. Also, the Project Condition of Approval referencing phasing does not overcome the Municipal Code mandate of Project inauguration within two years (without any construction gap greater than

180 days), which is evidenced by the lack of any phasing plan indicating timing or order of development.

Accordingly, the Applicant must submit a new application for Design Review.

If upon review of this communication you have questions, please contact me.

Very truly yours,

William D. Ross
City Attorney

Enclosure: November 28, 2022 Communication from Mr. Lo Duca

cc: Marcus J. Lo Duca, Esq.
Law Offices of Marcus J. Lo Duca, P.C.
mloduca@loducalaw.com

William He, AICP, Associate Planner
City of American Canyon
whe@cityofamericancanyon.org

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AMERICAN CANYON, CALIFORNIA, APPROVING A CONDITIONAL USE PERMIT FOR DEVELOPMENT OF A 2,818 SQUARE FOOT QUICK-SERVE RESTAURANT WITH A DRIVE-THU LANE AT 200 AMERICAN CANYON ROAD, APN 59-110-056 (FILE NO. PL22-0021)

WHEREAS, on August 22, 2022, the Chandi Hospitality Group filed a Conditional Use Permit application (File No. PL22-0021) for development of a 2818 square feet quick-serve restaurant with a drive-thru lane at a vacant lot at 200 American Canyon Road (Walgreens Pharmacy), APN 059-110-056; and

WHEREAS, the project site is located on a 1.03-acre site in the Neighborhood Commercial (NC) zoning district within the Broadway District Specific Plan; and

WHEREAS, the project will be supported with 29 parking stalls and approximately 3,994 square feet of landscaping; and

WHEREAS, a duly-noticed public hearing was held by the City of American Canyon Planning Commission on February 23, 2023 and March 23, 2023 on the subject application, at which time all those in attendance were given the opportunity to speak on this proposal; and

WHEREAS, the Planning Commission considered all of the written and oral testimony presented at the public hearing in making its decision on March 23, 2023; and

NOW THEREFORE BE IT RESOLVED that the American Canyon Planning Commission hereby makes the following CEQA findings and findings set out in Sections 1 and 2 to approve Conditional Use Permit PL22-0021 for the Project, subject to the conditions of approval set out in Section 3.

SECTION 1: CEQA FINDINGS

The 2019 Broadway District Specific Plan (BDSP) Final Environmental Impact Report (FEIR) evaluated the development of the 292-acre site area along the Broadway corridor. The City made findings of overriding consideration for significant and unavoidable impacts. The Chicken Guy Restaurant project site and the amount of development are consistent with the FEIR. In accordance with CEQA Section 15168 (c), staff reviewed the project with a written checklist, supplemental CEQA analysis submitted by applicant, and evaluated the site and operation. The checklist determined that, with the mitigation measures prescribed, the project's environmental effects were within the scope of the program FEIR and there is no substantial evidence that there are changed circumstances requiring further CEQA review. An analysis of the Project consistent with the BDSP Final EIR is included as Exhibit A to this Resolution.

Additionally, the proposed conditional use permit is exempt from CEQA under Categorical Exemption, Class 32 (Section 15332) – In-fill Development Projects. The project meets all the characteristics of Class 32 listed below.

a. The project is consistent with the applicable general plan designation and all appliable general plan policies as well as with applicable zoning designation and regulations.

b. The proposed development occurs within city limits on a project site of no more than 5 acres substantially surrounded by urban uses.
c. The project site has no value as habitat for endangered, rare or threatened species.
d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
e. The site can be adequately served by all required utilities and public services.

SECTION 2: CONDITIONAL USE PERMIT FINDINGS

Approval of the Conditional Use Permit requires that all of the following findings be made, pursuant to American Canyon Municipal Code Section 19.42.020:

A. The proposed use is consistent with the policies and programs of the general plan and any applicable master or specific plan.

The project is located in the Neighborhood Commercial (NC) zoning district within the Broadway District Specific Plan. A quick-serve restaurant with drive-thru that is adjacent to residential uses requires a conditional use permit. With the conditions of approval identified in Section 3, the project complies with the policies and programs of the General Plan and BDSP.

B. The proposed use is consistent with the purpose(s) and standards of the applicable zoning district(s).

The project complies with the development standards identified in BDSP Table 2-13:

	Required	*Proposed*	*Compliance*
Minimum area	*1 acre*	*1.03 acres*	*Yes*
Minimum width	*200 ft*	*270 ft*	*Yes*
Minimum depth	*100 ft*	*140 ft*	*Yes*
Minimum front yard building setback	*15 ft*	*30 ft plus*	*Yes*
Minimum side yard	*10 ft*	*20 ft*	*Yes*
Minimum rear yard	*10 ft*	*47 ft*	*Yes*
Maximum density (nonresidential)	*0.5 FAR*	*0.06 FAR*	*Yes*
Maximum number of stories	*3*	*1*	*Yes*
Maximum building height	*54 ft*	*25'*	*Yes*

C. The proposed use complies with applicable policies of the Napa County Airport land use compatibility plan.

The project is within Zone E of the Airport Land Use Compatibility Plan, and restaurants are permitted uses within the zone.

D. The project site is physically suitable for the type and intensity of land use being proposed.

The site is relatively flat and is accessible by Broadway St. The site is suitable for the proposed quick-serve restaurant.

E. The proposed use will not be a nuisance or materially detrimental to the general health, safety, and welfare of the public or to property and residents in the vicinity.

The quick-serve restaurant shall comply with all Napa County health regulations. The site does not pose a nuisance to property or residents in the vicinity.

F. The site for the proposed use has adequate access, and meets parking and circulation standards and criteria.

The site has a main access from Broadway Street and American Canyon Road through the shopping center parking lot. The site has 29 parking spaces. Reciprocal parking easements provides shared parking in the Walgreens and 7-Eleven parking areas. The site includes two pedestrian paths of travel.

G. There are adequate provisions for water and sanitary services, and other public utilities to ensure that the proposed use would not be detrimental to public health and safety.

The site is ready for wet and dry utilities. Additionally, the site is required to underground utilities on and adjacent to the site. As a condition of approval, the applicant shall underground the telecom poles and overhead utilities on site. The proposed use would not be detrimental to public health and safety.

SECTION 3. CONDITIONS OF APPROVAL

General

1. The Conditional Use Permit approval is granted for the development of a 2,818 SF quick serve restaurant with drive-thru at the vacant lot at 200 American Canyon Rd, APN 059-110-056. The restaurant includes 70 fixed seats, a drive-thru, and 29 parking stalls. The 1.03-acre site is within the Neighborhood Commercial zoning district, shown on Exhibit B, which is on file in the Community Development Department, except as modified by conditions contained in this approval. Exhibit B includes the following:
    a. Site Plan and Architectural Plans prepared by Milestone Associates Imagineering, Inc, from Yuba City, CA, dated August 22,2022.
    b. Landscaping Plans prepared by Watkins Planning and Landscape Architecture, from Carmichael, CA, dated August 22, 2022.

2. The applicant shall defend, indemnify, and hold harmless the City of American Canyon ("City"), its elected and appointed officials, officers, employees, attorneys, representatives, boards, commissions, consultants, volunteers and agents from and against all claims, actions, including actions to arbitrate or mediate, damages, losses, judgments, liabilities, expenses and other costs, or proceedings against the City, its elected and appointed officials, officers, employees, attorneys, representatives, boards, commissions, volunteers, or agents to attack, modify, set aside, void, or annul an approval, conditional approval, permit, entitlement, environmental document, environmental clearance, mitigation plan, or any other document or any of the proceedings, acts, or determinations taken, done, or made prior to granting of such approval, conditional approval, permit, entitlement, environmental clearance, environmental document, mitigation plan, or other documents, by the City, including, without limitation, an action against an advisory agency, appeal board, or legislative body within the applicable limitation period.

   The obligation to defend, indemnify and hold the City harmless shall include the payment of all legal costs and attorney's fees (including a third party award of attorney's fees), arising out of, resulting from, or in connection with the City's act or acts leading up to and including approval of any environmental document or mitigation plan granting approvals to the applicant, incurred on behalf of, or by, the City, its elected and appointed officials, officers, employees, representatives, attorneys, boards, commissions, volunteers and agents in connection with the defense of any claim, action, or proceeding challenging the entire or a portion of an approval, conditional approval, permit, entitlement or any other document of any related claim.

The obligation to defend, indemnify, and hold the City harmless shall include, but not be limited to, the cost of preparation of any administrative record by the City, staff time, copying costs, court costs, or attorney's fees arising out of a suit or challenge contesting the adequacy of a permit, approval, conditional approval, entitlement, environmental document, mitigation plan, environmental clearance, or any other document or approval related to the applicant's project.

The City will promptly notify the applicant of any claim, action, or proceeding and will cooperate fully in the defense. If the City fails to promptly notify the applicant of any claim, action, or proceeding, or the City fails to cooperate fully in the defense, the applicant shall not be responsible to defend, indemnify, or hold harmless the City.

In the event a legal challenge to a City permit, approval, conditional approval, environmental document, environmental clearance, mitigation plan, entitlement or any other document, proceeding, determination, or action related to the applicant's project is successful, and an award of attorneys' fees is granted against the City, the applicant shall be responsible to timely pay the full amount of such an award.

3. The approval shall become effective on the expiration of the appeal period, ten calendar days following the decision, unless an appeal to the City Council is filed. An appeal may be filed with the Community Development Director by filling out an Appeal Form accompanied by a fee of $751.

4. This approval is also subject to return of the "Applicant Confirmation of Conditions of Approval" form signed by the property owner as incorporated in this Resolution as Exhibit C. Should an appeal period end on a Saturday, Sunday or holiday, the final day for filing an appeal shall be the following Monday, or the next business day following a holiday. If there is no appeal, this approval will be final on April 3, 2023.

5. The applicant is responsible for paying all charges related to the processing of this discretionary case application within 30 days of the issuance of the final invoice or prior to the issuance of building permits for this project, whichever occurs first. Failure to pay all charges shall result in delays in the issuance of required permits or the revocation of the approval of this application.

6. The date upon which the approval is final shall be considered the day of the imposition of the fees, dedications, reservations and exactions required by these conditions approval for the purposes of protesting the imposition pursuant to California Government Code Section 66020.

7. If no construction permits have been issued and construction commenced within one year of the date upon which this approval is final, the approval shall become null and void and of no effect (see ACMC 19.42.030(A). An extension of time may be granted by the Community Development Director upon the written request by a responsible party before the expiration of the one-year period, provided that the Director can make the findings that there have been no substantial changes in the approved plans, and that there has been no change of circumstances which would prevent any of the required findings of approval to be made.

8. Prior to obtaining a building permit, all parties working on the project must obtain a business license from the City.

9. The Property Owner is responsible to remove any graffiti that occurs on the site within 24 hours.

10. The Property Owner is responsible to maintain the site free of all litter and debris and ensure that all facilities and grounds are properly maintained.

Planning

11. The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Conditional Use Permit, under the title "Conditional Permit Conditions". The second sheet may also be used if the first sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

12. The Conditional Use Permit approval does not include signs. Prior to the installation of signs, submit a new sign program application for all signs proposed for Parcel 3.

13. Prior to building permit issuance, the applicant shall submit final landscape plans that comply with the State of California Water Efficient Landscape Ordinance. The landscape architect shall document and attest to the compliance with the State ordinance on the landscape plans. The plans shall incorporate the following requirements:
    a. All trees must be 15 gallons in size or larger.
    b. According to ACMC Section 19.21.030(L), provide an evergreen hedge that will grow to 30 inches tall along the west side of the drive-thru lane to screen view of drive-thru vehicles from Broadway (SR-29).

14. Prior to the issuance of a certificate of occupancy, the project landscape architect shall certify that all plant materials have been installed in accordance with the approved landscape plan.

15. All tree stakes and ties shall be removed within one year following installation or as soon as trees are able to stand erect without support.

16. Clear sight triangles shall be maintained at all driveways. Low-lying plantings and other site fixtures, including signs, shall be no taller than 30 inches within the site vision triangles.

17. All planting shall be maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning of debris and trash, fertilizing and regular watering. Whenever necessary, planting shall be replaced with other plant materials to ensure continued compliance with applicable landscaping requirements. Required irrigation systems shall be fully maintained in sound operating condition with heads periodically cleaned and replaced when missing to insure continued regular watering of landscape areas, and health and vitality of landscape materials.

18. According to BDSP Policy 3-2, roof access ladders mounted to the building exterior walls are not permitted.

19. According to BDSP Policy 3-2, projects are required to incorporate equipment and service items such as: garbage storage, loading docks, vents, AC compressors, roof access ladders, meters, and transformers into the building design and/or landscape areas to minimize noise and visual impacts on

pedestrian areas, streets and adjacent properties. Roof mounted mechanical equipment shall be screened with a parapet equal in height to the highest equipment facility.

20. Prior to the issuance of the building permit, the "tower" feature above the pickup window on the east elevation shall be confirmed as an enclosed box above the building parapet.

21. Prior to the issuance of the building permit, provide revised building elevation drawings. Ensure the drawings illustrate the colors and materials of the "back" of any architectural feature that rises above the parapet and faces the interior of the building.

22. According to BDSP Policy 3-4, existing overhead utility poles on-site and along the property frontage to be placed underground in conjunction with development of the site or as a deferred requirement subject to approval of the City Engineer. Parcel 3 contains three utility poles and overhead utilities. Prior to the issuance of the site improvement plans, identify the undergrounding of the utility poles and overhead utilities. Prior to the certificate of occupancy, complete the utility undergrounding.

23. According to ACMC Section 19.21.050, developments with 29 parking spaces shall provide 2 bicycle parking spaces. Prior to building permit issuance, identify the bicycle parking spaces on the site plan.

24. Consistent with General Plan Policy H-8.12, the "Yocha Dehe Wintun Nation Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation" shall be implemented in the event any Native American human remains, grave goods, ceremonial items, and items of cultural patrimony are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground disturbing activity. A copy of the "Yocha Dehe Wintun Nation Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation" is included in this Resolution as Exhibit D.

Building and Safety

25. According to BDSP Chapter 2.2, prior to issuance of a building permit, the applicant shall submit plans that demonstrate the proposed project shall exceed compliance with Title 24 Part 6 Energy Standards by 15%.

26. Prior to building permit issuance, the applicant shall submit plans that demonstrate the women's restrooms have no fewer toilets than the men's room has toilets and urinals, per CPC Table 422.1 footnote 3.

27. Prior to the building permit issuance, ensure trash enclosure have drains and hot water or steam for cleaning.

28. Prior to the final inspection, the applicant shall submit a letter of certification to the Building Official from the project architect, civil engineer, and landscape architect certifying that all improvements have been constructed in accordance with the approved building plans.

29. Prior to the final inspection, a Certified Access Specialist (CASp) shall submit a letter certifying that all improvements have been constructed in compliance with applicable state and federal accessibility

standards. Determination of consistency shall be subject to the review and approval of the Building Official.

Fire District General Comments

30. In accordance with the standard mitigation measures and conditions of approval set forth by the City of American Canyon, the developer shall pay the Fire Impact Fees (see current Standard Fees and Charges adopted by resolution), prior to the issuance of any building permits.

31. New buildings and additions to existing buildings shall conform to requirements set forth in the currently adopted editions of the California Building Code, California Fire Code, City of American Canyon standards and Nationally Recognized Standards.

32. There shall be no deferred submittals for fire protection equipment and related utilities. Fire protection plans shall not be attached to or bound with the building plan submittal package. This includes but is not limited to Automatic Fire Sprinkler, Fire Alarm, Fixed Fire Protection and Civil plans.

33. All Fire related underground piping and fire appurtenances shall be shown on the Civil plan submittal. In addition to the Civil plan submittal, at least (1) plan set under separate cover shall be submitted to American Canyon Building Division for routing to the American Canyon Fire Protection District detailing all underground piping and related fire appurtenances including but not limited to underground piping, underground sweep detail, underground trench details showing depth of burial, type of backfill, manufacturer's specifications of piping, valves joints, fittings and calculated size and locations of thrust blocks, hydrants locations (designate public or private), gate shut-off valves, PIV's, FDC's, fire pumps, fire pump and/or riser rooms.

34. Underground utility contractor, architect and fire sprinkler contractor shall coordinate the location of risers and control valves prior to the issuance of a building permit.

35. Fire Department plan review shall be based on the information submitted at the time of permit application. Any changes to the approved/permitted scope of work including additions, alterations, demolition, repair or a change in occupancy/use may impact the project requirements, including but not limited to the installation of additional fire protection systems or components.

36. An approved water supply capable of supplying the required fire flow for fire protection systems shall be provided to all premises upon which facilities or buildings are hereby constructed or moved into or within the City. Required fire flow and hydrant distribution shall be in accordance with Appendix B and C of the California Fire Code. Applicant shall demonstrate on plan submittal; square footage of each building on plan and provide the required fire flow information. Applicant shall demonstrate that the number and spacing of onsite fire hydrants meets with requirements of the California Fire Code. See sample below regarding fire flow and hydrant detail information needed.

BUILDING FIRE FLOW REQUIREMENTS – CFC TABLES B105.2 & B105.1(2)

INFORMATION BELOW IS A SAMPLE AND FOR REFERENCE ONLY

Table B105.1(2) – Building size = 129, 600 square feet
Construction type = Type IIA
FF = 5,250 gpm at 20 psi
Duration = 4 hours
Table B105.2 – Fire sprinkler allowance = - 50%

5,250 – 2,625 = 2,625 gpm
FF = 2,625 gpm @ 20 psi
Duration = 2 hours
Table CC105.1 – Approximate number of hydrants = 3
Average spacing = 400 feet + 25% allowable increase = 500
Maximum distance from street or frontage = 225 feet = 50% allowable increase = 337.5

37. Fire Protection systems shall be installed in accordance with provisions set forth in the California Fire Code as amended by the City of American Canyon and the applicable National Fire Protection Association Standard.

38. The fire protection equipment shall be located within an interior room having an approved exterior access door or in an exterior enclosure attached to the building, specifically, for the purpose of housing such equipment.

39. Fire Apparatus Access Roads shall be designed in accordance with provisions set forth in the California Fire Code Chapter 5 and Appendix D as amended by the City of American Canyon and the applicable Public Works Standard.

40. Fire apparatus access roads shall have an unobstructed minimum width of 20 feet (curb to curb) and a minimum unobstructed vertical clearance of 13’ 6”. They shall have an all-weather paved surface capable of supporting a GVW of 75,000 pounds.

41. Access roads shall be completed with all-weather surfaces prior to the stockpiling of combustible materials or beginning combustible construction. Fire apparatus access shall be provided to within 150 feet of the most remote portions of all building from an approved exterior route. If this cannot be achieved fire apparatus turn arounds will be needed.

42. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. Vertical traffic calming in the form of speed pumps, humps or dips are prohibited along fire access roads without prior approval of the fire Code Official. The minimum width and clearances established in Section 503.2.1 shall be maintained at all times.

43. When required by the Fire Chief, fire apparatus access roads shall be designated as Fire Lanes and appropriate signs and/or markings installed in accordance with the California Vehicle Code and approved City standards.

44. Where applicable improvement plan submittals for permit shall include locations of fire lane red curbing and fire lane signage. Please refer to and include City Public Works Standard FP-2A & 2B with plan submittals for permitting.

45. The City of American Canyon requires that a fire hydrant be in service within 250 feet of the furthest point of construction prior to the stockpiling of combustible materials for the beginning of construction.

46. Fire Department Connections (FDC) shall be located not more than 100 ft. from the nearest fire hydrant.

Public Works General Conditions of Approval

47. The Applicant shall be responsible for all City plan check and inspection costs. The Applicant shall establish a Developer Deposit Account with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual costs.

48. All improvements shall be designed in accordance with the American Canyon Municipal Code (ACMC), City of American Canyon Engineering Standard Plans and Specifications for Public Improvements (City Standards), except as specifically noted otherwise in these conditions.

49. All new utilities to serve the project, shall be placed underground. Exceptions may be allowed for surface mounted transformers, pedestal mounted terminal boxes and meter cabinets.

50. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Napa County Department of Environmental Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination.

51. A detailed Soils Investigation/Geotechnical Report shall be prepared and submitted for review. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The improvement plans shall incorporate all design and construction criteria recommended in the Geotechnical Report.

52. A drainage report prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include detailed hydrologic and hydraulic calculations to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements.

53. A final detailed post-construction Stormwater Control Plan (SWCP) that identifies and sizes all permanent post-construction stormwater treatment BMPs shall be prepared and submitted for review and approval. The SWCP shall be prepared in accordance with the latest edition of the *Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual* and the requirements of the State Water Resources Control Board Phase II Municipal Separate Storm Water System (MS4) General Permit (Order 2013-0001 DWQ). It is the City's discretion whether to accept alternative treatment facilities other than bioretention.

54. A Post Construction Stormwater Operations and Maintenance Plan that includes a plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs shall be submitted for review and approval by the City Engineer. Once approved, the property owner(s) shall enter into an agreement with the City that provides the terms, conditions, and security associated with the ongoing requirements of the post-construction Stormwater Best Management Practices.

55. The Applicant shall secure all necessary rights-of-way and public and private easements for both onsite and offsite improvements. The Applicant shall prepare all necessary legal descriptions and deeds.

56. To the extent any offsite public improvements require the acquisition of property not currently owned by the Applicant or the City, the Applicant shall first make a good-faith effort to acquire the necessary property rights, however if the Applicant makes such an effort and is unable to acquire such rights, then the Applicant may request the City acquire the necessary property rights through the exercise of eminent domain provided that the Applicant enters first into an agreement with the City to pay for all costs incurred by the City to acquire such rights and if the City does not acquire the rights necessary to allow the offsite public improvements to be completed by the Applicant within statutory timeline provided by law, then the Applicant shall be relieved of the obligation to construct those off-site improvements only to the extent they require property not currently owned by the Applicant or the City. The Applicant shall make a good-faith effort to identify and acquire the necessary property rights at the earliest opportunity.

57. The Applicant shall submit site Improvement Plans, prepared by a registered Civil Engineer, for review and approval of the City's Public Works Department. **Please be aware that this is separate submittal from the building permit application.** The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. No final grading or other construction shall be performed until the Improvement Plans have been approved. The Applicant shall not begin clearing, grubbing, or rough grading at the site prior to approval of the Improvement Plans, unless explicitly approved by the City of American Canyon through the standard grading and utilities only permit process. An Encroachment Permit is required for any work within City right of way. Encroachment Permits will not be issued prior to the approval of the Improvement Plans.

58. All public water service laterals or services (domestic, recycled and fire water) shall include approved backflow prevention devices.

59. Cathodic protection shall be provided for all water valves, fittings, hydrants, meters, backflow devices, ductile iron pipe, and other metal appurtenances, regardless of the findings of any soils corrosivity analysis.

60. All sanitary sewer manholes shall be epoxy coated on the inside or installed with an exterior seal to limit infiltration.

61. The Applicant shall keep adjoining public and private streets free and clean of project dirt, mud, materials, and debris during the construction period in accordance with an approved SWPPP and Erosion and Sediment Control Plan using appropriate BMPs and as is found necessary by the City Engineer.

62. If any hazardous material is encountered during the construction of this project, all work shall be immediately stopped and the Fire Department, Napa County Department of Environmental Services or other designated agency, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.

63. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed and service connections stubbed out behind the sidewalk. Public utilities, Cable TV,

sanitary sewers, and water lines shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.

64. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.

65. All new fire hydrants shall be covered with burlap sacks until the hydrants have been tested and found to be in conformance with City flow requirements. No storage of combustible materials or construction of building shall be permitted until all hydrants meet City flow requirements.

66. Prior to placing the final lift of asphalt, all public storm drains and sanitary sewer lines shall be video inspected at the Applicant's expense. All video media (CD, DVD, or portable hard drive) shall be submitted to the City. If any inadequacies are found, they shall be repaired prior to the placement of the final lift of asphalt.

67. All streets, curbs, gutters, sidewalks or other public facilities damaged in the course of construction associated with this Project shall be the responsibility of the Applicant and shall be repaired to the satisfaction of the City at the Applicant's expense.

68. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.

69. All construction stormwater pollution prevention best management practices (BMP's) shall be installed as the first order of work and in accordance with the *State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ, as amended)*, the Applicant's Storm Water Pollution Prevention Plan (SWPPP), and the City's Erosion and Sediment Control Plan in accordance with the City's MS4 Permit. All stormwater BMP's shall be maintained to the satisfaction of the Qualified SWPPP Developer (QSD), Qualified SWPPP Practitioner (QSP), and the City Engineer.

70. Construction activities associated with the grading/improvement plans shall be limited to between 7:00 a.m. and 6:00 p.m. Monday through Friday. Work on weekends and holidays require written approval from the Public Works Director. If weekends and holiday work is approved, construction and grading activities shall be limited to between 8:00 a.m. to 6:00 p.m. on Saturdays, and between 10:00 a.m. and 6 p.m. on Sundays and holidays.

71. With the exception of water used for loading and testing of potable water lines, all construction water used for the project shall be obtained from a source other than American Canyon potable water sources. The Applicant shall provide verification that an outside source of construction water, e.g., recycled water, has been established and will be available for the duration of the project construction.

72. The development shall comply with the City's Zero Water Footprint policy.

73. All landscaping shall be designed to use recycled water for irrigation. Recycled water landscaping shall be designed to comply with California Code of Regulations Title 22 and shall include design details to prevent runoff of recycled water. The irrigation system shall include an ET/SMART controller.

Public Works Special Conditions of Approval

74. The Applicant shall submit Improvement Plans prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the preliminary civil plans titled "Chicken Guy Restaurant" prepared by Milestone Associates Imagineering, Inc., dated August 22, 2022, except as modified by these conditions.

75. Improvement Plans shall be tied to the State of California coordinate system.

76. The Applicant shall design and construct all of the Public Improvements generally shown on the Preliminary Plans and more specifically described below.

    a. Underground Utility:

    Per the Broadway District Specific Plan, development of the site requires the project to have all existing overhead utilities on-site and along the frontage relocated underground. Developer shall underground the on-site AT&T overhead lines, as shown in the Utility Underground Exhibit that was circulated, October 27, 2022. The undergrounding shall extend south crossing Broadway.

77. The Applicant shall construct all of the on-site private drive aisles, parking spaces, walks, water, recycled water, sanitary sewer, storm drainage and stormwater quality and landscaping "**Private Improvements"** generally shown on the Preliminary Plans and more specifically described below. All private drive aisles, parking spaces, walks, water, sewer, storm drainage and stormwater quality improvements shall be designed in accordance with the City of American Canyon Engineering Standard Plans and Specifications for Public Improvements (City Standards), except as specifically noted otherwise in these conditions.

    a. Revise the site plan so that if vehicle queuing entering the drive thru extends beyond the drive thru lane, it will not conflict with vehicles exiting the restaurant drive thru lane or the Walgreens drive thru.

    b. Revise the site plan to replace the pedestrian path of travel from Broadway to Walgreens.

    c. Locate any monument signs such that they do not create sight obstructions for vehicles exiting the site.

    d. Revise the site grading and drainage design so that all site runoff will pass through the existing Contech StormFilter vault.

    e. Provide a floor drain in the garbage enclosure that is connected to the sewer service upstream of the grease interceptor. Also provide a hose bib at the trash enclosure for wash down.

    f. Provide accessible crosswalk between the curb ramp northwest of the building and trash enclosure.

g. Trash enclosures shall be design in accordance with the American Canyon Draft Trash Enclosure Standards. Trash enclosures shall also be coordinated with Recology.

h. All other unresolved Public Works comments during the Conditional Use Permit review shall be addressed and incorporated in the Improvement Plans.

78. Prior to SUBMITTAL OF THE IMPROVEMENT PLANS, the Applicant shall:

a. Submit a current preliminary title report with links to all record documents.

b. Submit a copy of the current American Canyon Commercial Center shared maintenance agreement.

c. Submit the City's "Improvement Plan Checklist".

d. Pay an initial cash deposit for City plan check services in amount to be determined by the City prior to the time of submittal. The Project engineer shall contact City staff to discuss submittal details to determine initial deposit amount.

e. Provide the following:
(1) Public Street Repair Plan
(2) Utility Plan and Joint Trench Plan
(3) Construction Storm Water Pollution Prevention Plan (SWPPP) and a City Erosion and Sediment Control Plan (ESCP)
(4) Drainage Report
(5) Post-Construction Stormwater Control Plan (SWCP)
(6) Geotechnical Report
(7) Construction Traffic Control Plan.
(8) Traffic Impact Analysis that identifies net new trips generated by the new restaurant.
(9) Submit application for Water and Sewer Will Serve.
(10) Submit Vehicle Queuing Plan and Traffic Management Plan to address circulation conflict.

f. Pothole and physically determine (by way of a survey performed by the Engineer of record) the actual horizontal location and vertical depth of all existing underground utilities throughout the proposed area of work and provide the design of all new utility installations required to serve the project including a schedule for implementation of such work as to prevent disrupting of utility service to adjacent properties.

79. Prior to APPROVAL OF THE IMPROVEMENT PLANS, the Applicant shall:

a. Provide written acknowledgment by the Geotechnical Engineer of Record that the Plans incorporate all design and construction criteria specified in the Geotechnical Report.

b. Complete and submit the City's Erosion and Sediment Control Plan (ESCP) Template. Applicant may refer to a SWPPP, as appropriate, by referencing page number within the SWPPP that addresses the requirements of the ESCP.

c. Submit a copy of the Notice of Intent and WDID# for coverage under the State Water Resources Control Board' General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

80. Prior to COMMENCEMENT OF CONSTRUCTION ACTIVITIES, the Applicant shall:

a. Pay off all current account balances with the City of American Canyon.

b. Pay an inspection fee in amount to be determined at the time of commencement for the City's inspection of the Public Improvements.

c. Conduct a pre-construction meeting with representatives of the City whereby the Applicant, the Legally Responsible Party (LRP), Qualified SWPPP Practitioner (QSP), Qualified SWPPP Developer (QSD), cultural representatives, and/or the Contractor provides the following:

(1) Six (6) full-size bond copies of the approved Improvement Plans for the City's use.
(2) One (1) job-site copy of the latest edition of the City Standards for the Contractor use.
(3) One (1) job-site copy of the SWPPP for use by the LRP, QSP, QSD, and Contractor.
(4) Electronic copies of Improvement Plans and SWPPP

81. Prior to APPROVAL OF A BUILDING PERMIT, the Applicant shall:

a. Pay all account balances and current City and American Canyon Fire District fees (Mitigation & Capacity) based on the rates in effect at the time of permit issuance. These fees include, but may not be limited to the following: Traffic Mitigation, General Plan Update, Civic Facilities, Fire District, Water Capacity, Zero Water Footprint Mitigation and Wastewater Capacity.

82. Prior to ACCEPTANCE OF IMPROVEMENTS, the Applicant shall:

a. Restore all adjacent off-site road surfaces to pre-project conditions.

b. Submit a certification by the Geotechnical Engineer of Record that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.

c. Provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes, in digital AutoCAD (.dwg) and (.pdf) format (void of any AutoCAD block formats preventing full editing capabilities of the drawings), compatible with the City's current version, and tied to the NAD83 (California Zone 2, feet) coordinate system.

d. Provide a letter stating that all of the Developer’s Conditions of Approval have been met.

e. Provide a letter from the Civil Engineer of Record certifying that all the site improvements were constructed and inspected in substantial conformance with the approved plans and City Standards.

Mitigation Monitoring and Reporting Program

All applicable mitigations in the Mitigation Monitoring and Reporting Program for the Broadway District Specific Plan Project Environmental Impact Report (Resolution No. 2019-51, State Clearinghouse No. 2017042025) are incorporated as conditions of approval by reference as listed below.

Mitigation Measures

83. MM AIR-2: Prior to issuance of the first construction permit for projects that occur pursuant to the Specific Plan, the applicant shall submit construction plans to the City of American Canyon with the following notes on them. The dust abatement measures described in the notes shall be implemented during construction.
    a. During construction activities, the following air pollution control measures shall be implemented:
    b. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day, or more as needed.
    c. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
    d. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
    e. All vehicle speeds on unpaved roads and surfaces shall be limited to 15 miles per hour.
    f. All roadways, driveways, and sidewalks shall be paved as soon as possible.
    g. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
    h. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 2 minutes (beyond the 5-minute limit required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
    i. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
    j. A publicly visible sign shall be posted with a name and telephone number of the person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations.

84. MM AIR-3: Prior to issuance of the first construction permit for development projects that occur pursuant to the Specific Plan, the applicant shall provide documentation to the City of American Canyon demonstrating that all off-road by diesel equipment proposed for use is powered with Tier 3 or cleaner engines.

85. MM AIR-4b: Prior to issuance of building permits for any potential source of toxic air contaminants that would be developed pursuant to the Specific Plan, the applicant shall complete either of the following two options:
    a. Prepare and submit a toxic air contaminant risk screening assessment to the City of American Canyon that demonstrates the proposed development would not expose sensitive receptors to levels of risk that exceed the BAAQMD project level and cumulative risk threshold for toxic air contaminant impacts.
    b. Prepare and submit a Health Risk Analysis to the City of American Canyon consistent with BAAQMD recommended methodology, which demonstrates the proposed development would not expose sensitive receptors to levels of risk that would exceed the BAAQMD project level and cumulative risk threshold for toxic air contaminant impacts. If mitigation

is required to reduce a potentially significant risk to less than the cumulative risk threshold, that mitigation shall be clearly identified and the associated risk reduction quantified. The mitigation must be incorporated into the project and implemented.

86. MM CUL-1: If prehistoric or historic-period archaeological resources are encountered during ground disturbing activities associated with new development that occurs pursuant to the Specific Plan, all construction activities within 100 feet of the find shall halt and the City of American Canyon shall be notified. Prehistoric archaeological materials might include obsidian and chert flakedstone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. A Secretary of the Interior-qualified archaeologist shall inspect the findings within 24 hours of discovery. If it is determined that the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the CEQA Guidelines), mitigation shall be implemented in accordance with PRC Section 21083.2 and Section 15126.4 of the CEQA Guidelines, with a preference for preservation in place. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, a qualified archaeologist shall prepare and implement a detailed treatment plan in consultation with the City of American Canyon. Treatment of unique archaeological resources shall follow the applicable requirements of PRC Section 21083.2. Treatment for most resources would consist of (but would not be not limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the Project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.

87. MM CUL-3: If potential fossils are discovered during project implementation, all earthwork or other types of ground disturbance within 100 feet of the find shall stop immediately until a qualified professional paleontologist can assess the nature and importance of the find. The paleontologist shall report his/her findings to the City of American Canyon. Based on the scientific value or uniqueness of the find, the paleontologist shall either record the find and recommend that the City of American Canyon allow work to continue, or recommend salvage and recovery of the fossil. The paleontologist shall, if required, propose modifications to the stop-work radius based on the nature of the find, site geology, and the activities occurring on the site. If treatment and salvage is required, recommendations will be consistent with Society of Vertebrate Paleontology guidelines and currently accepted scientific practice. If required, treatment for fossil remains shall include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and, if required, shall also include preparation of a report for publication describing the finds.

88. MM CUL-4: In the event of discovery or recognition of any human remains during construction activities, such activities within 100 feet of the find shall cease until the Napa County Coroner has

been contacted to determine that no investigation of the cause of death is required. The Native American Heritage Commission (NAHC) shall be contacted within 24 hours if it is determined that the remains are Native American. The NAHC will then identify the person or persons it believes to be the most likely descendant from the deceased Native American (PRC Section 5097.98), who in turn would make recommendations to the City of American Canyon for the appropriate means of treating the human remains and any associated funerary objects (CEQA Guidelines Section 15064.5(d)).

89. MM GEO-1b: Prior to issuance of building permits for development projects that occur pursuant to the Specific Plan, the City of American Canyon shall verify that the applicant has commissioned a design-level geotechnical report. The report shall be prepared by a licensed geologist or geotechnical engineer and determine whether the geologic conditions of the site in question are suitable for development. All recommendations for grading, soil engineering, and construction shall be incorporated into the project plans.

90. MM HYD-1a: Prior to issuance of grading permits for development projects that occur pursuant to the Specific Plan, the City of American Canyon shall verify that the applicant has prepared a Stormwater Pollution Prevention Plan (SWPPP) in accordance with the requirements of the statewide Construction General Permit. The SWPPP shall be designed to address the following objectives:
    a. all pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled;
    b. where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated;
    c. site best management practices (BMPs) are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity; and
    d. stabilization BMPs are installed to reduce or eliminate pollutants after construction are completed. The SWPPP shall be prepared by a qualified SWPPP developer. The SWPPP shall include the minimum BMPs required for the identified Risk Level. BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook—Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual.

91. MM HYD-1b: Prior to issuance of building permits for development projects that occur pursuant to the Specific Plan, the project applicant shall prepare a Stormwater Control Plan that includes post-construction stormwater controls in the site design to satisfy requirements of the Phase II Small MS4 Permit. This shall include a review of the final Stormwater Control Plan by the City of American Canyon to ensure that the required controls are in place.

    Provision E.12.h of the MS4 Permit requires that an operation and maintenance program be implemented for post-construction stormwater management features. Responsible parties and funding for long-term maintenance of all BMPs must be specified. This plan shall specify a regular inspection schedule of stormwater treatment facilities in accordance with the requirements of the MS4 Permit. Reports documenting inspections and any remedial action conducted shall be submitted regularly to the City for review and approval.

PASSED, APPROVED and ADOPTED at a regularly scheduled meeting of the Planning Commission of the City of American Canyon held on the 23rd day of March, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Crystal Mallare, Chair

ATTEST:

_____
Nicolle Jones, Administrative Technician

APPROVED AS TO FORM:

_____
William D. Ross, City Attorney

EXHIBITS:

A. BDSP Program EIR Evaluation
B. Project Plans
C. Applicant confirmation of Conditions of Approval
D. "Yocha Dehe Wintun Nation Treatment Protocol for Handling Human Remains and Cultural Items Affiliated with the Yocha Dehe Wintun Nation"

TITLE

6th Cycle Housing Element Municipal Code and General Plan Amendment Implementation

RECOMMENDATION

Adopt a Resolution of the Planning Commission of the City of American Canyon recommending the City Council of the City of American Canyon amend the American Canyon Municipal Code Chapter 19.38 "Emergency Shelters"; Chapter 19.39 "Accessory Dwelling Units"; and delete General Plan Goal 1B Growth Control Policies consistent with current State Law.

CONTACT

Brent Cooper, AICP, Community Development Director

BACKGROUND & ANALYSIS

On January 31, 2023, the Planning Commission recommended, and the City Council approved the 6th Cycle Housing Element (Housing Element). The Housing Element includes many programs to Affirmatively Affirm Fair Housing in American Canyon and achieve the City's Regional Housing Needs Allocation (RHNA) for the next 8 years (2023-2031).

On February 7, 2023, the State of California Department of Housing and Community Development (HCD) submitted a letter that identifies needed changes to the City's Accessory Dwelling Unit Ordinance (American Canyon Municipal Code (ACMC) Chapter 19.39). A copy of the HCD ADU review letter is included as Attachment 2.

On February 10, 2023, HCD submitted a letter that comprehensively reviews the Housing Element. Among all HCD comments, three comments suggest the City analyze certain issues that the Housing Element already decided needed to be addressed. These include Emergency Shelter parking requirements, Accessory Dwelling Unit ordinance update, and General Plan growth control policies. A copy of the HCD Housing Element letter is included as Attachment 3.

Staff is actively working on responding to all HCD's comments. With regard to the three specific issues, (Emergency Shelter parking requirements, Accessory Dwelling Unit ordinance update, and General Plan growth control policies), the Housing Element already concurs with HCD's comments. Therefore, instead of analyzing these issues further, then committing to make code amendments later, as suggested by HCD, staff feels the most efficient response to HCD is to simply update the

regulations now.

Specific Ordinance and General Plan Amendments include the following:

1 . Zoning for a Variety of Housing Types (Emergency Shelters) The HCD Housing Element letter notes that the City's Zoning Code requires Emergency Shelters to provide two parking spaces per staff and one space per six occupants. However, HCD points out that state law prohibits resident parking requirements unless the City can demonstrate that the combined employee and resident requirements do not exceed the parking standards for other commercial and residential uses in that zoning district.

If the City were to attempt to demonstrate that the combined employee and resident requirements do not exceed the parking standards for other commercial and residential uses in that zoning district, we would have a difficult task. This is because other land uses (i.e: retail, hotel, institutional, office, industrial, warehouse etc.) use a different parking requirement formula. Typically, this formula uses a per square foot parking basis. Residential requires two parking spaces for three or more bedrooms plus visitor parking. In the case of Emergency Shelters, the parking demand is based on an unknown number of employees and residences. To compound the analysis, there are no known Emergency Shelters in American Canyon.

Because Emergency Shelter parking requirements requires knowledge of information that is not available (i.e.: Emergency Shelter resident population), and other parking standards are based on a completely different formula (square footage or residential bedrooms plus visitor), it is not feasible to compare these parking standards in a way that could objectively demonstrate that Emergency Shelter parking does not exceed the parking requirements for other commercial and residential uses in that zone. Furthermore, Housing Element Program C already acknowledges needed changes to the municipal code to meet current State laws. Redline changes to Municipal Code Chapter 19.38 Emergency Shelters is included as Attachment 4. Amending the Emergency Shelter ordinance to delete resident parking requirements should address this HCD comment.

2 . ADU Ordinance Update The fact that HCD went to the effort to comprehensively review and offer suggested amendments to the City's ADU ordinance suggests the importance of this issue to the State. The HCD Housing Element letter acknowledged that Program F will update the ADU ordinance to remove subjective design criteria. However, the February 7, 2023 HCD letter noted that additional changes the City's ADU ordinance are needed to comply with State Law. HCD suggests that Program F (ADU) be revised to specifically commit the City to revising the City's ADU ordinance to address HCD's findings.

Because Program F already acknowledges the need to update the ADU Ordinance, staff recommends updating the ADU ordinance now consistent with HCD review comments. Adopting a new state-compliant ADU ordinance should address HCD's concerns with the Housing Element. A redline copy of Municipal Code changes to the ADU Ordinance is included as Attachment 5.

3. General Plan Growth Control Policy Inconsistency with the Housing Crisis Act The HCD Housing Element letter states that the Housing Crisis Act of 2019 (SB 330), among several other provisions, prohibits a locality from imposing moratoriums and limiting approvals or population caps. The HCD letter points out that the City's General Plan, through Goal 1B, constrains total additional new development based on highway improvements stipulated by the Circulation Element. Thus, the General Plan appears to trigger the Housing Crisis Act. As a result, the HCD Housing Element letter suggests that the City analyze all the growth control policies in Goal 1B specifically in relation to SB 330. The HCD letter goes on to say if the analysis indicates that the City's growth control policies conflict with State law, the Housing Element should commit to removing or suspending the City's growth management policies immediately. A copy of SB 330 is included as Attachment 6.

Housing Element Program D already acknowledges that the City will update the General Plan to ensure growth management policies do not conflict with State law. Furthermore, the City is in the process of comprehensively updating the General Plan to comply with State Law.

Deleting Goal 1B does not abandon rational planning for the future. The 1990-era growth policies in Goal 1B do not provide meaningful guidance today. What is important is to maintain consistency among General Plan Elements, such as the Land Use Element, Mobility Element, and the Utility Element provides a connection of future growth with needed infrastructure. Implementing actions, such as traffic, water, parks, and other impact fees helps pay for the impacts of new development. Master Plans, such as the Urban Water Master Plan and other long-range infrastructure plans address impacts of land use growth. The California Environmental Quality Act (CEQA) also plays an important role in evaluating proposed development with infrastructure needs.

Because the Housing Element Program D acknowledges the General Plan Growth control policies conflict with State Law, staff proposes to delete Goal 1B at this time. Deleting the growth limit polices now will avoid an unnecessary work effort to analyze a policy that is slated for deletion. A copy of redline changes to General Plan Goal 1b Growth Control policies is included as Attachment 7.

COUNCIL PRIORITY PROGRAMS AND PROJECTS

Organizational Effectiveness: "Deliver exemplary government services."

ENVIRONMENTAL REVIEW

The proposed municipal code and general plan amendments are exempt from environmental review under CEQA because the amendments are consistent with State law that preempt any inconsistent local ordinance. Thus, the City's action is not creating a new land use regulation and it can be seen with certainty that no environmental impacts will result from the City's action. Consequently, and in accordance with CEQA Section 21084(a) and both Section 15002(i)(1) – lack of Local Jurisdictional Discretion – and Section 15061(b)(3) – General Rule of Exemption – of the CEQA Guidelines, the ordinance adoption is exempt from CEQA review and a Notice of Exemption has been prepared for

this proposed amendment.

ATTACHMENTS:

1 PC Reso Housing Element Program Implementation
2. HCD ADU Review Letter 02.07.23
3. HCD Housing Element Review Letter 02.10.23
4. REDLINE Emergency Shelters Chapter 19.38
5. REDLINE ADU Ordinance Chapter 19.39
6. SB 330 Housing Crisis Act
7. REDLINE Growth Management Policies

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AMERICAN CANYON RECOMMENDING THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMEND THE AMERICAN CANYON MUNICIPAL CODE CHAPTER 19.38 "EMERGENCY SHELTERS"; CHAPTER 19.39 "ACCESSORY DWELLING UNITS"; AND DELETE GENERAL PLAN GOAL 1B GROWTH CONTROL POLICIES CONSISTENT WITH CURRENT STATE LAW

WHEREAS, on January 31, 2023, the Planning Commission recommended, and the City Council approved the 6th Cycle Housing Element (Housing Element); and

WHEREAS, on February 7, 2023, the State of California Department of Housing and Community Development (HCD) submitted a letter that identifies needed changes to the City's Accessory Dwelling Unit Ordinance; and

WHEREAS, on February 10, 2023, HCD submitted a letter that comprehensively reviews the Housing Element; and

WHEREAS, Staff is actively working on responding to all of HCD's comments. Specific Ordinance and General Plan Amendments that address certain HCD Housing Element letter comments include the following:

1. Zoning for a Variety of Housing Types (Emergency Shelters) Municipal Code Chapter 19.38 requires Emergency Shelters provide two parking spaces per staff and one space per six occupants. However, State Law prohibits resident parking requirements unless the City can demonstrate that the combined employee and resident requirements do not exceed the parking standards for other commercial and residential uses in that zone. To address HCD's State Law Emergency Shelter parking requirement comment, the resident parking requirement will be deleted.

2. ADU Ordinance Update HCD identified inconsistencies between the Municipal Code Chapter 19.39 ADU ordinance and State Law. To address HCD's comments, the ADU ordinance will be revised consistent with HCD review comments that address State law.

3. Growth Control Policy Inconsistency with the Housing Crisis Act The HCD Housing Element letter states that the Housing Crisis Act of 2019 (SB 330), among several other provisions, prohibits a locality from imposing moratoriums and limiting approvals or population caps. The letter points out that General Plan Goal 1b growth policies constrain additional new development in the City and therefore appears to trigger the Housing Crisis Act and should be removed or suspended immediately. Housing Element Program D states that the City will remove General Plan growth control policies for consistency with the State law. To address HCD's comments, consistent with Housing Element Program D, General Plan Goal 1b will be deleted; and

WHEREAS, the proposed amendments modifies Chapter 19.39 Emergency Shelters consistent with current State law; and

WHEREAS, the proposed amendments modifies Chapter 19.39 Accessory Dwelling Units consistent with current State law; and

WHERAS, the proposed General Plan Goal 1b deletion is consistent with current State law; and

WHEREAS, on March 23, 2023, the City of American Canyon Planning Commission conducted a public hearing, at which time all those in attendance were given the opportunity to speak on this proposal.

NOW, THEREFORE THE PLANNING COMMISSION OF THE CITY OF AMERICAN CANYON RECOMMENDS THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ADOPT AS FOLLOWS:

SECTION 1: Adopt the updated American Canyon Municipal Code Chapter 19.38 "Emergency Shelter" as follows:

Chapter 19.38 EMERGENCY SHELTERS

19.38.010 Location of emergency shelters.

Emergency shelters are permitted as an allowed use in the community commercial (CC) and light industrial (LI) subject to the location restrictions identified in this section. Emergency shelters are also permitted within the medium density residential (RM), high density residential (RH) with approval of a conditional use permit and subject to the location restrictions identified in this section. Emergency shelters shall not be located within less than three hundred from any other existing emergency shelter facility. (Ord. 2014-06 § 6, 2014)

19.38.020 Standards.

In addition to the development standards in the underlying zoning district, emergency shelters shall comply with the standards set forth in this section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply.

A. Physical Characteristics.

1. Compliance with applicable state and local uniform housing and building code requirements.

2. The facility shall have on-site security during all hours when the shelter is open.

3. Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.

4. Facilities shall provide secure areas for personal property.

B. Limited Number of Beds per Facility. Emergency shelters shall not exceed forty beds.

C. Limited Terms of Stay. The maximum term of staying at an emergency shelter is six months in a consecutive twelve-month period.

D. Parking. The emergency shelter shall provide on-site parking at a rate of two spaces per facility for staff.

E. Emergency Shelter Management. A management plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services. Such plan shall be submitted to and approved by the community development department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrates compliance with the physical standards of this chapter. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. (Ord. 2014-06 § 6, 2014)

SECTION 2: Adopt the updated American Canyon Municipal Code Chapter 19.39 "Accessory Dwelling Units" as follows:

American Canyon, California Municipal Code Title 19 ZONING
DIVISION 2. ZONING DISTRICT PERMITTED USES AND DEVELOPMENT STANDARDS

Chapter 19.39 ACCESSORY DWELLING UNITS

19.39.010 Purpose of the chapter.

The purpose of this chapter is to increase the supply of smaller units and rental housing units by allowing accessory dwelling units on lots containing a single-family dwelling in various residential districts as shown on Table 19.10.040, and to establish design and development standards for accessory dwelling units to ensure that they are compatible with existing neighborhoods and consistent with the general plan and its elements. Accessory dwelling units contribute needed housing to the community's housing stock. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.020 Applicability.

The provisions of this chapter apply to all lots that are occupied with a single-family dwelling unit and multifamily dwelling and zoned residential. Accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot. (Ord. 2020-04 § 1, 2020; Ord. 2017-05
§ 2, 2017)

19.39.030 General plan consistency.

An accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth in accordance with Government Code Section 65852.2(a)(8). (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.040 Definitions.

"Accessory dwelling unit" means one additional dwelling unit attached to, within, or detached from the proposed or existing primary dwelling unit one thousand two hundred square feet or less that is on the same parcel in areas zoned to allow single-family and/or multifamily dwelling residential use, and provides permanent and independent provisions for living, sleeping, eating, cooking, and sanitation for one or more persons. An accessory dwelling unit also includes the following:

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Junior accessory dwelling unit" means one accessory dwelling unit that is five hundred square feet or less that is contained entirely in the primary residence or within an attached garage.

"Primary residence" means the residential dwelling that existed on the parcel before or constructed concurrent with the accessory dwelling unit. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2,
2017)

19.39.050 Development standards—Generally.

A. Each accessory dwelling unit requires approval of a building permit.

B. The applicant of each accessory dwelling unit building permit application shall identify the anticipated rent and household size of the new accessory dwelling unit.

C. One detached accessory dwelling unit and one junior accessory dwelling unit are

permitted per single-family parcel.

D. A single-family primary residence dwelling must exist on the parcel before the accessory dwelling unit is built or it shall be built concurrently with the accessory dwelling unit.

E. Accessory dwelling units shall comply with the lot area, yard setback, height, and building coverage standards of the applicable residential zoning district as described in Section 19.10.050 except for the following:

1. The accessory dwelling unit is built in the garage and the garage setback is closer than the setback for the primary residence.

2. If the accessory dwelling unit is built in an existing accessory structure, the existing accessory structure setbacks apply and not the setbacks for a single-family house.

3. Existing setbacks apply to existing structure conversions.

4. Development standards shall be waived to permit a detached accessory dwelling unit that is no greater than eight hundred square feet, and has four-foot setbacks. The maximum height depends on these conditions:

i. A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.
ii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.
iii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.
iv. A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling unit to exceed two stories.

5. The applicant shall not be required to correct pre-existing nonconforming zoning conditions as conditions of approval.

F. Accessory Dwelling Living Area Standard.

1. Detached accessory dwelling units shall not exceed one thousand two hundred square feet and height in accordance with Section 19.35.050(E)(4).

2. Attached accessory dwelling units may occupy up to fifty percent of the primary residence living area but shall not exceed one thousand two hundred square feet.

3. Junior accessory dwelling units shall not exceed five hundred square feet.

G. Fire Sprinkler Requirements.

1. Accessory dwelling units shall comply with all applicable fire safety provisions of state law as well as locally adopted building and fire codes under Title 16. Examples include, but are not limited to, standards such as water supply and fire department access.

2. Under state law, in general, accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinklers are required for the primary residence. For purposes of this requirement, the following standards shall apply:

i. When the primary residence has fire sprinklers, the accessory dwelling unit shall be constructed with fire sprinklers.

ii. When the primary residence does not have fire sprinklers, the junior accessory dwelling unit and attached accessory dwelling unit do not require fire sprinklers unless the junior accessory dwelling unit or attached accessory dwelling unit increases the size of the house by at least fifty percent.

iii. Detached accessory dwelling units require fire sprinklers unless the primary residence does not have fire sprinklers.

H. Deed Restrictions. Prior to issuing a building permit for an accessory dwelling unit, the property owner shall file with the county recorder, in a format with language approved by the city, a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The accessory dwelling unit shall not be sold separately.

2. The restrictions are binding upon any successor in ownership of the property.

3. The property owner must occupy as a primary residence one of the two dwelling units on the property, either the primary or accessory dwelling unit except accessory dwelling unit and junior accessory dwelling unit applications submitted between January 1, 2020 to January 1, 2025.

4. When the applicant is a qualified nonprofit housing organization, a deed restriction is not required.

I. Impact Fees.

1. Accessory dwelling units less than seven hundred and fifty square feet are exempt from all city impact fees.

2. Impact fees for accessory dwelling units equal or greater than seven hundred and fifty square feet are exempt from water and sewer capacity fees. All remaining impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

J. Accessory Dwelling Units on Multifamily Dwellings. The building division shall review and

approve ministerially accessory dwelling units under the following conditions.

1. Non-habitable area within an existing multifamily dwelling structure, including, but not limited to: storage rooms, boiler rooms, passageways, attics, basements or garages, may be converted to one or more accessory dwelling units if each accessory dwelling unit complies with state dwelling unit building standards.

2. An existing multifamily dwelling shall be permitted to accommodate additional accessory dwelling units in an amount up to twenty-five percent of the existing multifamily dwelling units.

3. An existing multifamily dwelling is permitted up to two detached accessory dwelling units on the same lot. Each detached accessory dwelling unit shall subject to a height limit in accordance with Section 19.35.050(E)(4) and four- foot rear yard and side yard setbacks.

K. CC&Rs. As defined in California Civil Code Section 4751 or any successor statute, any covenant, condition, and restriction (CC&R) or contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards (subsections F and G) established for those units shall be void and unenforceable. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.060 Junior accessory dwelling unit standards.

A. Each junior accessory dwelling unit shall comply with the following building standards.

1. Electric service may not exceed one hundred twenty volts.

2. No appliances may be fueled with natural gas or propane.

3. The dwelling must have its own exterior entrance.

4. The kitchen must include a cooking facility with appliances, and includes a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

5. The kitchen sink waste line may not exceed one and one-half inches.

6. The bathroom may be included in the unit or shared with the primary residence.

7. Junior accessory dwelling units are exempt from the building code wall separation requirements with the primary residence. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.070 Parking standards.

A. When accessory dwelling unit parking is required by this chapter or provided at the discretion of the homeowner, parking spaces may be covered or uncovered, provided as tandem parking on an existing driveway or on a paved surface in a setback or yard area.

B. Primary Residence. Parking for the primary residence must comply with Chapter 19.21.

C. Detached Accessory Dwelling Unit.

1. A minimum of one on-site parking space is required.

2. Notwithstanding subsection (C)(1), on-site parking is not required when:

   i. The detached accessory dwelling unit is located within one-half mile walking distance of public transit or within one block of a car- sharing pickup/drop-off location; and/or
   ii. The ADU is located within an architecturally and historically significant historic district; and/or
   iii. The ADU is part of the proposed or existing primary residence or an accessory structure; and/or
   iv. On-street parking permits are required but not offered to the occupant of the ADU.

D. Attached Accessory Dwelling Unit. No on-site parking is required.

E. Junior Accessory Dwelling Unit. No on-site parking is required.

F. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the city shall not require replacement of the off-street parking spaces. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.080 Operational standards.

A. The accessory dwelling unit may not be sold separately from the primary residence.

B. Owner-Occupancy. The property owner shall reside in either the primary residence or the accessory dwelling unit except accessory dwelling unit and junior accessory dwelling unit applications submitted between January 1, 2020 to January 1, 2025.

C. An accessory dwelling unit may not be rented for transient occupancy (less than thirty consecutive days). (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.090 Design standards.

Accessory dwelling units shall comply with the following design standards that are intended to maximize the compatibility of accessory dwelling units with the neighborhoods in which they are located.

A. The accessory dwelling unit shall comply with any City adopted objective design standards applicable to ADUs.

B. An accessory dwelling unit connected to an onsite water treatment system requires a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last ten years. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.100 Review and approval process.

Permits for accessory dwelling units and junior accessory dwelling units shall be reviewed ministerially through the building division in accordance to Government Code Section 65852.2 (a) through (e).

A. The building division shall act on the application to create an accessory dwelling unit or junior accessory dwelling unit within sixty days from the date the building division receives a completed application if there is an existing single-family or multifamily dwelling on the lot.

B. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted concurrently with a permit application to create a new single-family dwelling on the lot, the building division may delay acting on the accessory dwelling unit or junior accessory dwelling unit permit application until the building division acts on the new single-family dwelling permit application, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered ministerial without discretionary review or a hearing. If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay. (Ord. 2020-04 § 1, 2020)

19.39.110 Code enforcement.

For accessory dwelling units built before January 1, 2020, the property owner may request delayed enforcement of building standards for five years.

A. There shall be no delays granted after January 1, 2030.

B. There shall be no delays granted if the delay of the correction will cause a violation needed to protect health and safety. (Ord. 2020-04 § 1, 2020)

SECTION 3: Delete General Plan Goal 1b as follows:

~~***MANAGEMENT AND PHASING OF GROWTH***~~

~~**Goal**~~

~~**1B Provide for the orderly development of American Canyon that maintains its distinctive character.**~~

~~**Objective**~~

1.2 Promote a rate of growth that is consistent with the ability of the City to provide adequate infrastructure and services and does not adversely impact the distinctive character and quality of life in American Canyon.

Policies

1.2.1 Monitor the rates of development in the City on an annual basis and, should these show significant increases from historic averages, evaluate the appropriateness of establishing a phased program of growth. (*I 1.9* and *I 1.10*)

1.2.2 Establish as a priority the development of projects that are contiguous with and infill the existing pattern of development, avoiding leap-frog development, except for large scale master-planned projects that are linked to and planned to be extensions of existing development and for which infrastructure and services are in place or funded. (*I 1.9* and *I 1.11*)

Objective

1.3 Ensure that land use development is coordinated with the ability to provide adequate public infrastructure (transportation facilities, wastewater collection and treatment, water supply, electrical, natural gas, telecommunications, solid waste disposal, and storm drainage) and public services (governmental administrative, capital improvements, police, fire, recreational, cultural, etc.).

Policies

1.3.1 Implement public infrastructure and service improvements necessary to support land uses accommodated by the **Land Use Plan** (as defined in the **Circulation** and **Public Utilities and Services Elements**. (*I 1.4, I 1.5, I 1.8, I 1.10 I 1.13, I 1.15, and I 1.17*)

1.3.2 Require that type, amount, and location of development be correlated with the provision of adequate supporting infrastructure and services (as defined in the **Circulation** and **Public Utilities and Services Elements**. (*I 1.4, I 1.5, I 1.8, and I 1.9*)

1.3.3 Regulate the type, location, and/or timing of development as necessary in the event that there is inadequate public infrastructure or services to support land use development. (*I 1.9*)

1.3.4 Limit the total additional new development that can be accommodated in the City and its Urban Limit Line to the following provided that the highway improvements stipulated by the **Circulation Element** are implemented. (*I 1.9*)

Use	**City**	**City Urban Limit Line**	**Total**
Residential			
• Single Family	1,678 units	3,204 units	4,882 units

~~• Multi-Family~~	~~967 units~~	~~466 units~~	~~1,433 units~~
~~Commercial~~			
~~• Retail~~	~~607,500 square feet~~		~~607,500 square feet~~
~~• Office~~	~~270,000 square feet~~		~~270,000 square feet~~
~~Industrial~~	~~1,560,195 square feet~~	~~4,218,305 square feet~~	~~5,778,500 square feet~~

~~1.3.5 Consider increases in development capacity when it can be demonstrated that additional transportation improvements have been implemented or are funded, or demands have been reduced (based on highway level of service and vehicle trips), and such increases are consistent with community needs and desires. (*I 1.9* and *I 1.10*)~~

~~1.3.6 Monitor the capacities of other infrastructure (water, sewer, and other) and services and establish appropriate limits on development should their utilization and demands for service exceed acceptable levels or increase the cost burdens for existing residents. (*I 1.10*)~~

SECTION 4: CEQA FINDINGS. The Planning Commission recommends the City Council find the proposed municipal code and general plan amendments are exempt from environmental review under CEQA because the amendments are consistent with State law that preempt any inconsistent local ordinance. Thus, the City's action is not creating a new land use regulation and it can be seen with certainty that no environmental impacts will result from the City's action. Consequently, and in accordance with CEQA Section 21084(a) and both Section 15002(i)(1) – lack of Local Jurisdictional Discretion – and Section 15061(b)(3) – General Rule of Exemption – of the CEQA Guidelines, the ordinance adoption is exempt from CEQA review and a Notice of Exemption has been prepared for this proposed amendment.

PASSED, APPROVED and ADOPTED at a regularly scheduled meeting of the Planning Commission of the City of American Canyon held on the 23rd day of March, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Crystal Mallare, Chair

ATTEST:

_____
Nicolle Jones, Administrative Technician

APPROVED AS TO FORM:

_____
William D. Ross, City Attorney

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

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

February 7, 2023

Brent Cooper
Community Development Director
City of American Canyon
4381 Broadway Street, Suite 201
American Canyon, CA 94503

Dear Brent Cooper:

RE: Review of the American Canyon's Accessory Dwelling Unit (ADU) Ordinance under State ADU Law (Gov. Code, § 65852.2)

Thank you for submitting the City of American Canyon's (City) accessory dwelling unit ADU Ordinance No. 2020-04, adopted August 18, 2020, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 65852.2, subdivision (h). HCD finds that the Ordinance does not comply with section 65852.2 in the manner noted below. Under that statute, the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than March 9, 2023.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law in the following respects:

- *Sections 19.39.040 Definitions, 19.39.050(E) – Multifamily Omitted* – The Ordinance defines an "accessory dwelling unit" as meaning "one additional attached or detached residential dwelling unit one thousand two hundred (1,200) square feet or less that is on the same parcel as a single-family dwelling." Later sections again refer to allowances and development standards exclusively for "the single-family primary residence".

  However, Government Code section 65852.2, subdivision (a)(1)(D)(iii), provides that an ADU may be attached to, within, or detached from the proposed or existing primary dwelling. The City must amend the ADU definition to include "within" the proposed or existing primary dwelling. Furthermore, the Ordinance defines ADUs as units on the same parcel as single-family residences and omits multifamily dwellings. Pursuant to Government Code section 65852.2, subdivisions (a)(1) and (a)(1)(D)(ii), ADUs may be created in areas zoned to

allow single-family **and/or multifamily dwelling** residential use. The City must amend the Ordinance definition of ADUs to include multifamily residences.

- *Section 19.39.040 – "JADU" Definition* – The Ordinance defines a junior accessory dwelling unit (JADU) as being "contained entirely within the primary residence." However, pursuant to Government Code section 65852.22, subdivision (a)(4), an attached garage shall be considered as a part of the single-family residence and therefore may be used to create a JADU. The Ordinance must be amended to clarify compliance with State ADU Law.

- *Section 19.39.050(A) – Development Standards* – The Ordinance requires the primary residence to remain in compliance with the standards in place for the primary dwelling for an applicant to add an ADU. However, Government Code section 65852.2, subdivision (d)(2), states that a "local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit." Therefore, the approval of an ADU application may not be contingent on compliance with applicable standards to the primary residence. The City must remove this section of the Ordinance.

- *Section 19.39.050(F)(4), (G), (J)(3) – Maximum Height* – The Ordinance states that the maximum height of an ADU is 16 feet. However, Government Code section 65852.2, subdivision (c)(2)(D), requires height maximums of no less than 16, 18, or 25 feet, depending on stated conditions. The City must amend its Ordinance accordingly.

- *Section 19.39.050(I) and 19.39.050(A) – Deed Restrictions* – The Ordinance notes a prohibition on the sale of an ADU separate from the site's primary dwelling. However, Government Code 65852.26, subdivision (a)(1), creates a narrow exception to allow separate conveyance of ADUs with the involvement of qualified nonprofit housing organizations. The City must revise the Ordinance to allow for such an exception.

- *Section 19.39.060(A)(1), (2), (4) and (5) – JADU Standards* – The Ordinance requires standards for electric service size, includes a prohibition on natural gas or propane, and requires a kitchen sink and a kitchen sink waste line. However, Government Code section 65862.22, subdivision (a)(6), requires a JADU to include an efficiency kitchen that is defined only as "a cooking facility with appliances, and includes a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit." Where these kitchen requirements exceed those authorized in statute, the City must amend the Ordinance to comply with State ADU Law.

- *Section 19.39.070(C)(2) – Parking Standards* – The Ordinance states that parking is not required if the detached ADU is within a half-mile walking distance of public transit or within one block of a car-sharing pickup/drop-off. While this complies with State ADU Law, the Ordinance omits other instances found in Government Code section 65852.2, subdivision (d), where parking may not be required when:

    - The ADU is located within an architecturally and historically significant historic district. (Gov. Code, § 65852.2 (d)(2).)
    - The ADU is part of the proposed or existing primary residence or an accessory structure. (Gov. Code, § 65852.2 (d)(3).)
    - On-street parking permits are required but not offered to the occupant of the ADU. (Gov. Code, § 65852.2 (d)(4).)

    The City must amend the Ordinance to include these exceptions.

- *Section 19.39.090(C) and (D) – Design Standards* – The Ordinance requires that an ADU be "aesthetically compatible with the primary residence and the surrounding neighborhood…." It also allows the community development director to "consider… the placement of windows, decks and balconies, landscape screening, height, and number of stories in determining if privacy will be materially reduced." However, Government Code section 65852.2, subdivision (a)(6), requires that ADU ordinances include "…only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units…." Terms like "aesthetically compatible" and "determining if privacy will be materially reduced" are subjective in violation of State Statute. The City must amend these sections to apply only objective standards.

In response to the findings in this letter, and pursuant to Government Code section 65852.2, subdivision (h)(2)(B), the City must either amend the Ordinance to comply with State ADU Law or adopt the Ordinance without changes. Should the City choose to adopt the Ordinance without the changes specified by HCD, the City must include findings in its resolution that explain the reasons the City finds that the Ordinance complies with State ADU Law despite the findings made by HCD. Accordingly, the City's response should provide a plan and timeline to bring the Ordinance into compliance.

Please note that, pursuant to Government Code section 65852.2, subdivision (h)(3)(A), if the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD may notify the City and the California Office of the Attorney General that the City is in violation of State ADU Law.

HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please contact Mike Van Gorder, of our staff, at (916) 916-776-7541 or at mike.vangorder@hcd.ca.gov if you have any questions or would like HCD's technical assistance in these matters.

Sincerely,

Shannan West
Housing Accountability Unit Chief

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT
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Sacramento, CA 95833
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February 10, 2023

Brent Cooper, Director
Community Development Department
City of American Canyon
4381 Broadway Street, Suite 201
American Canyon, CA 94503

Dear Brent Cooper:

RE: Review of American Canyon's 6th Cycle (2023-2031) Draft Housing Element

Thank you for submitting the City of American Canyon's (City) draft housing element received for review on November 14, 2022. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review.

The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State Housing Element Law (Article 10.6 of the Gov. Code), as follows:

1. *Review the previous element to evaluate the appropriateness, effectiveness, and progress in implementation, and reflect the results of this review in the revised element. (Gov. Code, § 65588 (a) and (b).)*

   As part of the evaluation of programs in the past cycle, the element must also provide an explanation of the effectiveness of goals, policies, and related actions in meeting the housing needs of special needs populations (e.g., elderly, persons with disabilities, large households, female headed households, farmworkers and persons experiencing homelessness). Programs should be revised as appropriate to reflect the results of this evaluation.

2. *Affirmatively further[ing] fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2…shall include an assessment of fair housing in the jurisdiction. (Gov. Code, § 65583, subd. (c)(10)(A).)*

   Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

Enforcement: While the element includes analysis of fair housing complaints, it must describe the City's compliance with existing fair housing laws and regulations. For additional information, please see pages 28-30 on HCD's Affirmatively Furthering Fair Housing (AFFH) Guidance Memo at https://www.hcd.ca.gov/community-development/affh/docs/AFFH_Document_Final_4-27-2021.pdf.

Goals, Priorities, Metrics, and Milestones: Goals and actions must significantly seek to overcome contributing factors to fair housing issues. Currently, the element identifies program(s) to encourage and promote affordable housing; however, additional revisions will be needed to these programs to facilitate meaningful change. Furthermore, the element must include quantifiable metrics and milestones for evaluating progress on programs, actions, and fair housing results. Programs must generally address enhancing housing mobility, increasing housing opportunities in high resourced areas, place-based strategies for community revitalization, and addressing displacement risks. Programs also need to be based on identified contributing factors, be significant and meaningful.

3. *Include an analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition. (Gov. Code, § 65583, subd. (a)(2).)*

   Housing Stock Condition: The element utilized housing age to determine number of units likely needing major rehab or replacement. However, the element should supplement this analysis with other data sources to better reflect the number of units in need of rehabilitation and replacement. For example, the analysis could include estimates from a recent windshield survey or sampling, estimates from the code enforcement agency, or information from knowledgeable builders/developers, including non-profit housing developers or organizations. For additional information, see the Building Blocks at https://www.hcd.ca.gov/planning-and-community-development/housing-elements/building-blocks/housing-stock-characteristics.

4. *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, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)*

   *Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory… (*Gov. Code, § *65583, subd. (c)(1).)*

Progress in Meeting the Regional Housing Need Allocation (RHNA): The element relies entirely on pipeline projects and accessory dwelling units (ADUs) to meet its RHNA. Specifically, the element has identified 1,539 units that are pending or approved. The element must demonstrate the availability of these units during the planning period. To demonstrate the availability of units within the planning period, the element should discuss anticipated completion, any anticipated barriers and other relevant factors. Examples of factors to consider include infrastructure schedules, the City's past completion rates on pipeline projects, outreach with project developers, any expiration dates on entitlements, anticipated timelines for final approvals, and any remaining steps for projects to receive final entitlements. Given the element's reliance on pipeline projects, the element should include programs with actions that commit to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve remaining entitlements, supporting funding applications, expediating approvals, rezoning or identification of additional sites should the applications not be approved).

Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at https://www.hcd.ca.gov/planning-and-community-development/housing-elements for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

Zoning for a Variety of Housing Types (Emergency Shelters): The element noted the City permits emergency shelters by-right in the LI and CC zones and there is sufficient capacity to address the need. However, the element should clarify that by-right means permitting without any discretionary action. Second, the element should discuss the suitability of these zones, for example proximity to transportation and services for these sites, hazardous conditions, and any conditions in appropriate for human habitability.

Lastly, the element indicated that City complies with parking requirements pursuant to Government Code section 65583, subdivision a)(4)(A). Specifically, it notes that parking requirements for emergency shelters require two spaces per staff and one space per six occupants. However, state law limits parking requirements to employee parking, provided that requirements do not exceed the parking requirements for other commercial and residential uses in that zone. The element should clarify compliance with these requirements and include or modify a program, as necessary.

Programs: As noted above, the element does not include a complete site analysis, therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or

revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

In addition, while the element included an action to update the City's ADU ordinance to remove subjective design criteria, the City received correspondence from HCD on February 7, 2023 noting several findings regarding inconsistencies between the City's ADU ordinance and State Law. Program F (ADU) should be revised to specifically commit to revising the City's ADU ordinance to address HCD's findings.

5. *An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities… …including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures... (Gov. Code, § 65583, subd. (a)(5).)*

   Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities. (Gov. Code, § 65583, subd. (c)(3).)

   Local Processing and Permit Procedures: While the element indicates most housing types are processed by-right and generally only required to have a design permit, the element should identify and analyze the approval findings, timelines for reviewing and approving these permits and any other relevant factors for impacts on housing supply (number of units), cost, timing and approval certainty.

   SB 35 Streamlined Ministerial Approval Process: The element must clarify whether there are written procedures for the SB 35 (Chapter 366, Statutes of 2017) Streamlined Ministerial Approval Process and, if necessary, add a program to establish written procedures.

   SB 330, 2019: The Housing Crisis Act of 2019 (SB 330), among several other provisions, prohibits a locality from imposing moratoriums and limiting approvals or population caps. The element acknowledges the City limits the number of units based on highway improvements and other transportation demand criteria and appears to trigger the provisions of the Housing Crisis Act. As a result, the element should analyze the City's growth control policies specifically with compliance with SB 330. If the analysis indicates that the City's current growth control policies

conflict with State law, the element should commit Program D to removing or suspending the City's growth management policies immediately.

On/Off-Site Improvements: The element indicated that depending on the part of the City, on/off site improvements such as utilities, sidewalks, curbs, etc., will vary (pp. 5-35). However, the element should identity it must identify actual subdivision level improvement requirements, such as minimum street widths (e.g., 40-foot minimum street width), and analyze their impact as potential constraints on housing supply and affordability.

Constraints on Housing for Persons with Disabilities:

- *Reasonable Accommodation* – While the element described the process for filing a reasonable accommodation request (p. 5-32), it should also include any approval findings or decision-making criteria used when reviewing a reasonable accommodation request.

- *Group Homes for Seven or More Persons*– the element included program C committing to define and create a process for large residential care facilitates (group homes for seven or more persons). However, to address constraints for persons with disabilities, this program should be revised to include more specific commitments. Specifically, this program should commit to allowing group homes of seven or more in all residential zones and allowing them with objectivity and certainty similar to other residential uses of the same form. Additionally, the element should discuss if the City imposes any spacing requirements for these uses. For more information, please visit: https://www.hcd.ca.gov/sites/default/files/docs/planning-and-community/group-home-technical-advisory-2022.pdf.

Programs: As noted above, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

The element will meet the statutory requirements of State Housing Element Law once it has been revised and adopted to comply with the above requirements pursuant to Government Code section 65585.

As a reminder, the City's 6th cycle housing element was due January 31, 2023. As of today, the City has not completed the housing element process for the 6th cycle. The City's 5th cycle housing element no longer satisfies statutory requirements. HCD encourages the City to revise the element, adopt, and submit to HCD to regain housing element compliance.

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant; the Strategic Growth Council and HCD's Affordable Housing and Sustainable Communities programs; and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City will meet housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: https://www.opr.ca.gov/planning/general-plan/guidelines.html.

We are committed to assist the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Gianna Marasovich, of our staff, at Gianna.Marasovich@hcd.ca.gov.

Sincerely,

Paul McDougall
Senior Program Manager

REDLINE AMENDMENTS

Chapter 19.38 EMERGENCY SHELTERS

19.38.010 Location of emergency shelters.

Emergency shelters are permitted as an allowed use in the community commercial (CC) and light industrial (LI) subject to the location restrictions identified in this section. Emergency shelters are also permitted within the medium density residential (RM), high density residential (RH) with approval of a conditional use permit and subject to the location restrictions identified in this section. Emergency shelters shall not be located within less than three hundred from any other existing emergency shelter facility. (Ord. 2014-06 § 6, 2014)

19.38.020 Standards.

In addition to the development standards in the underlying zoning district, emergency shelters shall comply with the standards set forth in this section. In the event of conflict between these standards and the underlying zoning district regulations, the provisions of this section shall apply.

A. Physical Characteristics.

1. Compliance with applicable state and local uniform housing and building code requirements.

2. The facility shall have on-site security during all hours when the shelter is open.

3. Facilities shall provide exterior lighting on pedestrian pathways and parking lot areas on the property. Lighting shall reflect away from residential areas and public streets.

4. Facilities shall provide secure areas for personal property.

B. Limited Number of Beds per Facility. Emergency shelters shall not exceed forty beds.

C. Limited Terms of Stay. The maximum term of staying at an emergency shelter is six months in a consecutive twelve-month period.

D. Parking. The emergency shelter shall provide on-site parking at a rate of two spaces per facility for staff ~~plus one space per six occupants allowed at the maximum capacity~~.

JUSTIFICATION: **State law limits parking requirements to employee parking only.**

E. Emergency Shelter Management. A management plan is required for all emergency shelters to address management experience, good neighbor issues, transportation, client supervision, client services, and food services. Such plan shall be submitted to and approved by the community development department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrates compliance with the physical standards of this chapter. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. (Ord. 2014-06 § 6, 2014)

REDLINE AMENDMENTS

American Canyon, California Municipal Code Title 19

ZONING

DIVISION 2. ZONING DISTRICT PERMITTED USES AND DEVELOPMENT STANDARDS

Chapter 19.39 ACCESSORY DWELLING UNITS

19.39.010 Purpose of the chapter.

The purpose of this chapter is to increase the supply of smaller units and rental housing units by allowing accessory dwelling units on lots containing a single-family dwelling in various residential districts as shown on Table 19.10.040, and to establish design and development standards for accessory dwelling units to ensure that they are compatible with existing neighborhoods and consistent with the general plan and its elements. Accessory dwelling units contribute needed housing to the community's housing stock. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.020 Applicability.

The provisions of this chapter apply to all lots that are occupied with a single-family dwelling unit and multifamily dwelling and zoned residential. Accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and are a residential use that is consistent with the existing general plan and zoning designation for the lot. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.030 General plan consistency.

An accessory dwelling unit that conforms to this chapter shall be deemed to be an accessory use or an accessory building and shall not be considered to exceed the allowable density for the lot upon which it is located, and shall be deemed to be a residential use that is consistent with the existing general plan and zoning designations for the lot. The accessory dwelling units shall not be considered in the application of any local ordinance, policy, or program to limit residential growth in accordance with Government Code Section 65852.2(a)(8). (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.040 Definitions.

"Accessory dwelling unit" means one additional dwelling unit attached to, within, or detached from the proposed or existing primary dwelling unit ~~residential dwelling unit~~ one thousand two hundred square feet or less that is on the same parcel in areas zoned to allow ~~as a~~ single-family and/or multifamily dwelling residential use, and provides permanent and independent provisions for living, sleeping, eating, cooking, and sanitation for one or more persons. An accessory dwelling unit also includes the following:

JUSTIFICATION: *Government Code section 65852.2, subdivision (a)(1)(D)(iii), provides that an ADU may be attached to, within, or detached from the proposed or existing primary dwelling. Government Code section 65852.2, subdivisions (a)(1) and (a)(1)(D)(ii), ADUs may be created in areas zoned to allow single-family and/or multifamily dwelling residential use.*

1. An efficiency unit, as defined in Section 17958.1 of the Health and Safety Code.

2. A manufactured home, as defined in Section 18007 of the Health and Safety Code.

"Junior accessory dwelling unit" means one accessory dwelling unit that is five hundred square feet or less that is contained entirely in the primary residence or within an attached garage.

"Primary residence" means the residential dwelling that existed on the ~~single-family~~ parcel before or constructed concurrent with the accessory dwelling unit. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

JUSTIFICATION: *Government Code section 65852.22, subdivision (a)(4), an attached garage shall be considered as a part of the single-family residence and therefore may be used to create a JADU.*

19.39.050 Development standards—Generally.

A. ~~The addition of an accessory dwelling unit to a primary residence requires the primary residence to remain in compliance with the applicable development standards for that home.~~

JUSTIFICATION: *Government Code section 65852.2, subdivision (d)(2), states that a "local agency shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit."*

B. Each accessory dwelling unit requires approval of a building permit.

C. The applicant of each accessory dwelling unit building permit application shall identify the anticipated rent and household size of the new accessory dwelling unit.

D. One detached accessory dwelling unit and one junior accessory dwelling unit are permitted per single-family parcel.

E. A single-family primary residence dwelling must exist on the parcel before the accessory dwelling unit is built or it shall be built concurrently with the accessory dwelling unit.

F. Accessory dwelling units shall comply with the lot area, yard setback, height, and building coverage standards of the applicable residential zoning district as described in Section 19.10.050 except for the following:

1. The accessory dwelling unit is built in the garage and the garage setback is closer than the setback for the primary residence.

2. If the accessory dwelling unit is built in an existing accessory structure, the existing accessory structure setbacks apply and not the setbacks for a single-family house.

3. Existing setbacks apply to existing structure conversions.

4. Development standards shall be waived to permit a detached accessory dwelling unit that is no greater than eight hundred square feet, and has four-foot setbacks. The maximum height depends on these conditions:

i. A height of 16 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit.

ii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed single family or multifamily dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. A local agency shall also allow an additional two feet in height to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

iii. A height of 18 feet for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

~~i.~~iv. A height of 25 feet or the height limitation in the local zoning ordinance that applies to the primary dwelling, whichever is lower, for an accessory dwelling unit that is attached to a primary dwelling. This clause shall not require a local agency to allow an accessory dwelling

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unit to exceed two stories.~~sixteen feet in height, and has four-foot setbacks~~.

JUSTIFICATION: *Government Code section 65852.2, subdivision (c)(2)(D), requires height maximums of no less than 16, 18, or 25 feet, depending on stated conditions.*

4.5. The applicant shall not be required to correct pre-existing nonconforming zoning conditions as conditions of approval.

G. Accessory Dwelling Living Area Standard.

1. Detached accessory dwelling units shall not exceed one thousand two hundred square feet and ~~sixteen feet in~~ height in accordance with Section 19.35.050(E)(4).

JUSTIFICATION: *Government Code section 65852.2, subdivision (c)(2)(D), requires height maximums of no less than 16, 18, or 25 feet, depending on stated conditions.*

2. Attached accessory dwelling units may occupy up to fifty percent of the primary residence living area but shall not exceed one thousand two hundred square feet.

3. Junior accessory dwelling units shall not exceed five hundred square feet.

H. Fire Sprinkler Requirements.

1. Accessory dwelling units shall comply with all applicable fire safety provisions of state law as well as locally adopted building and fire codes under Title 16. Examples include, but are not limited to, standards such as water supply and fire department access.

2. Under state law, in general, accessory dwelling units shall not be required to be equipped with fire sprinklers unless fire sprinklers are required for the primary residence. For purposes of this requirement, the following standards shall apply:

i. When the primary residence has fire sprinklers, the accessory dwelling unit shall be constructed with fire sprinklers.

ii. When the primary residence does not have fire sprinklers, the junior accessory dwelling unit and attached accessory dwelling unit do not require fire sprinklers unless the junior accessory dwelling unit or attached accessory dwelling unit increases the size of the house by at least fifty percent.

iii. Detached accessory dwelling units require fire sprinklers unless the primary residence does not have fire sprinklers.

I. Deed Restrictions. Prior to issuing a building permit for an accessory dwelling unit, the property owner shall file with the county recorder, in a format with language approved by the city, a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

1. The accessory dwelling unit shall not be sold separately.

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2. The restrictions are binding upon any successor in ownership of the property.

3. The property owner must occupy as a primary residence one of the two dwelling units on the property, either the primary or accessory dwelling unit except accessory dwelling unit and junior accessory dwelling unit applications submitted between January 1, 2020 to January 1, 2025.

~~4.~~

~~5.~~4. When the applicant is a qualified nonprofit housing organization, a deed restriction is not required.

JUSTIFICATION: *Government Code 65852.26, subdivision (a)(1), creates a narrow exception to allow separate conveyance of ADUs with the involvement of qualified nonprofit housing organizations.*

J. Impact Fees.

1. Accessory dwelling units less than seven hundred and fifty square feet are exempt from all city impact fees.

2. Impact fees for accessory dwelling units equal or greater than seven hundred and fifty square feet are exempt from water and sewer capacity fees. All remaining impact fees shall be charged proportionately in relation to the square footage of the primary dwelling unit.

K. Accessory Dwelling Units on Multifamily Dwellings. The building division shall review and approve ministerially accessory dwelling units under the following conditions.

1. Non-habitable area within an existing multifamily dwelling structure, including, but not limited to: storage rooms, boiler rooms, passageways, attics, basements or garages, may be converted to one or more accessory dwelling units if each accessory dwelling unit complies with state dwelling unit building standards.

2. An existing multifamily dwelling shall be permitted to accommodate additional accessory dwelling units in an amount up to twenty-five percent of the existing multifamily dwelling units.

3. An existing multifamily dwelling is permitted up to two detached accessory dwelling units on the same lot. Each detached accessory dwelling unit shall subject to a height limit ~~of~~ in accordance with Section 19.35.050(E)(4) ~~sixteen feet~~ and four- foot rear yard and side yard setbacks.

JUSTIFICATION: *Government Code section 65852.2, subdivision (c)(2)(D), requires height maximums of no less than 16, 18, or 25 feet, depending on stated conditions.*

L. CC&Rs. As defined in California Civil Code Section 4751 or any successor statute, any covenant, condition, and restriction (CC&R) or contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a planned development, and any provision of a governing document, that effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the above-described minimum standards (subsections F and G) established for those units shall be void and unenforceable. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

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19.39.060 Junior accessory dwelling unit standards.

A. Each junior accessory dwelling unit shall comply with the following building standards.

1. Electric service may not exceed one hundred twenty volts.

2. No appliances may be fueled with natural gas or propane.

3. The dwelling must have its own exterior entrance.

4. The kitchen must include ~~a sink, cooking appliance, counter surface, and storage cabinets that meet minimum building code standards~~a cooking facility with appliances, and includes a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

JUSTIFICATION: *Government Code section 65862.22, subdivision (a)(6), requires a JADU to include an efficiency kitchen that is defined only as "a cooking facility with appliances, and includes a food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit."*

5. The kitchen sink waste line may not exceed one and one-half inches.

6. The bathroom may be included in the unit or shared with the primary residence.

7. Junior accessory dwelling units are exempt from the building code wall separation requirements with the primary residence. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.070 Parking standards.

A. When accessory dwelling unit parking is required by this chapter or provided at the discretion of the homeowner, parking spaces may be covered or uncovered, provided as tandem parking on an existing driveway or on a paved surface in a setback or yard area.

B. Primary Residence. Parking for the primary residence must comply with Chapter 19.21.

C. Detached Accessory Dwelling Unit.

1. A minimum of one on-site parking space is required.

2. Notwithstanding subsection (C)(1), on-site parking is not required ~~if~~when:

i. ~~t~~The detached accessory dwelling unit is located within one-half mile walking distance of public transit or within one block of a car- sharing pickup/drop-off location~~.~~; and/or

ii. The ADU is located within an architecturally and historically significant historic district; and/or

iii. The ADU is part of the proposed or existing primary residence or an accessory structure; and/or

~~2.~~iv. On-street parking permits are required but not offered to the occupant of the ADU.

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JUSTIFICATION: *Government Code section 65852.2, subdivision (d), where parking may not be required when:*

- *The ADU is located within an architecturally and historically significant historic district. (Gov. Code, § 65852.2 (d)(2).)*
- *The ADU is part of the proposed or existing primary residence or an accessory structure. (Gov. Code, § 65852.2 (d)(3).)*
- *On-street parking permits are required but not offered to the occupant of the ADU. (Gov. Code, § 65852.2 (d)(4).)*

D. Attached Accessory Dwelling Unit. No on-site parking is required.

E. Junior Accessory Dwelling Unit. No on-site parking is required.

F. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, the city shall not require replacement of the off-street parking spaces. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.080 Operational standards.

A. The accessory dwelling unit may not be sold separately from the primary residence.

B. Owner-Occupancy. The property owner shall reside in either the primary residence or the accessory dwelling unit except accessory dwelling unit and junior accessory dwelling unit applications submitted between January 1, 2020 to January 1, 2025.

C. An accessory dwelling unit may not be rented for transient occupancy (less than thirty consecutive days). (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.090 Design standards.

Accessory dwelling units shall comply with the following design standards that are intended to maximize the compatibility of accessory dwelling units with the neighborhoods in which they are located.

~~A.~~ The accessory dwelling unit shall comply with any City adopted objective design standards applicable to ADUs. ~~be designed so the site appearance remains that of a single-family residence, insofar as possible.~~

~~B. Where feasible, any new entrance to an accessory dwelling unit attached to the primary residence shall be located on the side or rear of the structure.~~

~~C. The accessory dwelling unit shall be aesthetically compatible with the primary residence and the surrounding neighborhood, including coordinating colors, materials, roofing, building height, other architectural features, and landscaping.~~

~~D.~~A. ~~The accessory dwelling unit location and orientation shall not materially reduce the privacy otherwise enjoyed by residents of adjacent parcels. The community development director shall consider, but is not limited to considering, the placement of windows, decks and balconies, landscape screening, height, and number of stories in determining if privacy will be materially reduced.~~

JUSTIFICATION: *Government Code section 65852.2, subdivision (a)(6), requires that ADU ordinances include "…only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units…." Terms like "aesthetically compatible" and "determining if privacy will be materially reduced" are subjective in violation of State Statute.*

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~~E.~~B. An accessory dwelling unit connected to an onsite water treatment system requires a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last ten years. (Ord. 2020-04 § 1, 2020; Ord. 2017-05 § 2, 2017)

19.39.100 Review and approval process.

Permits for accessory dwelling units and junior accessory dwelling units shall be reviewed ministerially through the building division in accordance to Government Code Section 65852.2 (a) through (e).

A. The building division shall act on the application to create an accessory dwelling unit or junior accessory dwelling unit within sixty days from the date the building division receives a completed application if there is an existing single-family or multifamily dwelling on the lot.

B. If the permit application to create an accessory dwelling unit or junior accessory dwelling unit is submitted concurrently with a permit application to create a new single-family dwelling on the lot, the building division may delay acting on the accessory dwelling unit or junior accessory dwelling unit permit application until the building division acts on the new single-family dwelling permit application, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered ministerial without discretionary review or a hearing. If the applicant requests a delay, the sixty-day time period shall be tolled for the period of the delay. (Ord. 2020-04 § 1, 2020)

19.39.110 Code enforcement.

For accessory dwelling units built before January 1, 2020, the property owner may request delayed enforcement of building standards for five years.

A. There shall be no delays granted after January 1, 2030.

B. There shall be no delays granted if the delay of the correction will cause a violation needed to protect health and safety. (Ord. 2020-04 § 1, 2020)

Senate Bill No. 330

CHAPTER 654

An act to amend Section 65589.5 of, to amend, repeal, and add Sections 65940, 65943, and 65950 of, to add and repeal Sections 65905.5, 65913.10, and 65941.1 of, and to add and repeal Chapter 12 (commencing with Section 66300) of Division 1 of Title 7 of, the Government Code, relating to housing.

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 330, Skinner. Housing Crisis Act of 2019.

(1) The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. The act specifies that one way to satisfy that requirement is to make findings that the housing development project or emergency shelter 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. The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the application was deemed to be complete, or to approve it on the condition that it be developed at a lower density, to base its decision upon written findings supported by substantial evidence on the record that specified conditions exist, and places the burden of proof on the local agency to that effect. The act requires a court to impose a fine on a local agency under certain circumstances and requires that the fine be at least $10,000 per housing unit in the housing development project on the date the application was deemed complete.

This bill, until January 1, 2025, would specify that an application is deemed complete for these purposes if a preliminary application was submitted, as described below.

Existing law authorizes the applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization to bring an action to enforce the Housing Accountability Act. If, in that action, a court finds that a local agency failed to satisfy the requirement to make the specified findings described above, existing law requires the court to issue an order or judgment compelling compliance with the act within 60 days, as specified.

This bill, until January 1, 2025, would additionally require a court to issue the order or judgment previously described if the local agency required or attempted to require certain housing development projects to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

Existing law authorizes a local agency to require a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, as specified.

This bill, until January 1, 2025, would, notwithstanding those provisions or any other law and with certain exceptions, require that a housing development project only be subject to the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted, except as specified.

(2) The Planning and Zoning Law, except as provided, requires that a public hearing be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications. That law requires that notice of a public hearing be provided in accordance with specified procedures.

This bill, until January 1, 2025, would prohibit a city or county from conducting more than 5 hearings, as defined, held pursuant to these provisions, or any other law, ordinance, or regulation requiring a public hearing, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, as defined. The bill would require the city or county to consider and either approve or disapprove the housing development project at any of the 5 hearings consistent with the applicable timelines under the Permit Streamlining Act.

(3) The Permit Streamlining Act, which is part of the Planning and Zoning Law, requires each state agency and each local agency to compile one or more lists that specify in detail the information that will be required from any applicant for a development project. That law requires the state or local agency to make copies of this information available to all applicants for development projects and to any persons who request the information.

The bill, until January 1, 2025, for purposes of any state or local law, ordinance, or regulation that requires a city or county to determine whether the site of a proposed housing development project is a historic site, would require the city or county to make that determination, which would remain valid for the pendency of the housing development, at the time the application is deemed complete, except as provided. The bill, until January 1, 2025, would also require that each local agency make copies of any above-described list with respect to information required from an applicant for a housing development project available both (A) in writing to those

persons to whom the agency is required to make information available and (B) publicly available on the internet website of the local agency.

The Permit Streamlining Act requires public agencies to approve or disapprove of a development project within certain timeframes, as specified. The act requires a public agency, upon its determination that an application for a development project is incomplete, to include a list and a thorough description of the specific information needed to complete the application. Existing law authorizes the applicant to submit the additional material to the public agency, requires the public agency to determine whether the submission of the application together with the submitted materials is complete within 30 days of receipt, and provides for an appeal process from the public agency's determination. Existing law requires a final written determination by the agency on the appeal no later than 60 days after receipt of the applicant's written appeal.

This bill, until January 1, 2025, would provide that a housing development project, as defined, shall be deemed to have submitted a preliminary application upon providing specified information about the proposed project to the city or county from which approval for the project is being sought. The bill would require each local agency to compile a checklist and application form that applicants for housing development projects may use for that purpose and would require the Department of Housing and Community Development to adopt a standardized form for applicants seeking approval from a local agency that has not developed its own application form. After the submittal of a preliminary application, the bill would provide that a housing development project would not be deemed to have submitted a preliminary application under these provisions if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20% or more until the development proponent resubmits the information required by the bill so that it reflects the revisions. The bill would require a development proponent to submit an application for a development project that includes all information necessary for the agency to review the application under the Permit Streamlining Act within 180 days of submitting the preliminary application.

The bill, until January 1, 2025, would require the lead agency, as defined, if the application is determined to be incomplete, to provide the applicant with an exhaustive list of items that were not complete, as specified.

The Permit Streamlining Act generally requires that a public agency that is the lead agency for a development project approve or disapprove a project within 120 days from the date of certification by the lead agency of an environmental impact report prepared for certain development projects, but reduces this time period to 90 days from the certification of an environmental impact report for development projects meeting certain additional conditions relating to affordability. Existing law defines "development project" for these purposes to mean a use consisting of either residential units only or mixed-use developments consisting of residential and nonresidential uses that satisfy certain other requirements.

This bill, until January 1, 2025, would reduce the time period in which a lead agency under these provisions is required to approve or disapprove a project from 120 days to 90 days, for a development project generally described above, and from 90 days to 60 days, for a development project that meets the above-described affordability conditions. The bill would recast the definition of "development project" for these purposes to mean a housing development project, as defined in the Housing Accountability Act.

(4) The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that relates to its planning. That law authorizes the legislative body, if it deems it to be in the public interest, to amend all or part of an adopted general plan, as provided. That law also authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.

This bill, until January 1, 2025, with respect to land where housing is an allowable use, except as specified, would prohibit a county or city, including the electorate exercising its local initiative or referendum power, in which specified conditions exist, determined by the Department of Housing and Community Development as provided, from enacting a development policy, standard, or condition, as defined, that would have the effect of (A) changing the land use designation or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; (B) imposing or enforcing a moratorium on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C) imposing or enforcing new design standards established on or after January 1, 2020, that are not objective design standards, as defined; or (D) establishing or implementing certain limits on the number of permits issued by, or the population of, the county or city, unless the limit was approved prior to January 1, 2005, in a predominantly agricultural county, as defined. The bill would, notwithstanding these prohibitions, allow a city or county to prohibit the commercial use of land zoned for residential use consistent with the authority of the city or county conferred by other law. The bill would state that these prohibitions would apply to any zoning ordinance adopted or amended on or after the effective date of these provisions, and that any development policy, standard, or condition on or after that date that does not comply would be deemed void.

This bill would also require a project that requires the demolition of housing to comply with specified requirements, including the provision of relocation assistance and a right of first refusal in the new housing to displaced occupants, as provided. The bill would provide that these provisions do not supersede any provision of a locally adopted ordinance

that places greater restrictions on the demolition of residential dwelling units or that requires greater relocation assistance to displaced households. The bill would require a county or city subject to these provisions to include information necessary to determine compliance with these provisions in the list or lists that specify the information that will be required from any applicant for a development project under the Permit Streamlining Act.

The bill would state that these prohibitions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly.

(5) This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(6) By imposing various new requirements and duties on local planning officials with respect to housing development, and by changing the scope of a crime under the State Housing Law, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(7) This bill would provide that its provisions are severable.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Housing Crisis Act of 2019.

SEC. 2. (a) The Legislature finds and declares the following:

(1) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita.

(2) Consequently, existing housing in this state, especially in its largest cities, has become very expensive. Seven of the 10 most expensive real estate markets in the United States are in California. In San Francisco, the median home price is $1.6 million.

(3) California is also experiencing rapid year-over-year rent growth with three cities in the state having had overall rent growth of 10 percent or more year-over-year, and of the 50 United States cities with the highest United States rents, 33 are cities in California.

(4) California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years.

(5) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates.

(6) The housing crisis harms families across California and has resulted in all of the following:

(A) Increased poverty and homelessness, especially first-time homelessness.

(B) Forced lower income residents into crowded and unsafe housing in urban areas.

(C) Forced families into lower cost new housing in greenfields at the urban-rural interface with longer commute times and a higher exposure to fire hazard.

(D) Forced public employees, health care providers, teachers, and others, including critical safety personnel, into more affordable housing farther from the communities they serve, which will exacerbate future disaster response challenges in high-cost, high-congestion areas and increase risk to life.

(E) Driven families out of the state or into communities away from good schools and services, making the ZIP Code where one grew up the largest determinate of later access to opportunities and social mobility, disrupting family life, and increasing health problems due to long commutes that may exceed three hours per day.

(7) The housing crisis has been exacerbated by the additional loss of units due to wildfires in 2017 and 2018, which impacts all regions of the state. The Carr Fire in 2017 alone burned over 1,000 homes, and over 50,000 people have been displaced by the Camp Fire and the Woolsey Fire in 2018. This temporary and permanent displacement has placed additional demand on the housing market and has resulted in fewer housing units available for rent by low-income individuals.

(8) Individuals who lose their housing due to fire or the sale of the property cannot find affordable homes or rental units and are pushed into cars and tents.

(9) Costs for construction of new housing continue to increase. According to the Terner Center for Housing Innovation at the University of California, Berkeley, the cost of building a 100-unit affordable housing project in the state was almost $425,000 per unit in 2016, up from $265,000 per unit in 2000.

(10) Lengthy permitting processes and approval times, fees and costs for parking, and other requirements further exacerbate cost of residential construction.

(11) The housing crisis is severely impacting the state’s economy as follows:

(A) Employers face increasing difficulty in securing and retaining a workforce.

(B) Schools, universities, nonprofits, and governments have difficulty attracting and retaining teachers, students, and employees, and our schools and critical services are suffering.

(C) According to analysts at McKinsey and Company, the housing crisis is costing California $140 billion a year in lost economic output.

(12) The housing crisis also harms the environment by doing both of the following:

(A) Increasing pressure to develop the state's farmlands, open space, and rural interface areas to build affordable housing, and increasing fire hazards that generate massive greenhouse gas emissions.

(B) Increasing greenhouse gas emissions from longer commutes to affordable homes far from growing job centers.

(13) Homes, lots, and structures near good jobs, schools, and transportation remain underutilized throughout the state and could be rapidly remodeled or developed to add affordable homes without subsidy where they are needed with state assistance.

(14) Reusing existing infrastructure and developed properties, and building more smaller homes with good access to schools, parks, and services, will provide the most immediate help with the lowest greenhouse gas footprint to state residents.

(b) In light of the foregoing, the Legislature hereby declares a statewide housing emergency, to be in effect until January 1, 2025.

(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following:

(1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b).

(2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.

SEC. 3. Section 65589.5 of the Government Code is amended to read:

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

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

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

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

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in

disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

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

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

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

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

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

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

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

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

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

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

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

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

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

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

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

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

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

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be

calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

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

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

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

(5) The housing development project or emergency shelter is inconsistent with both the 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. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

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

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

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

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

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

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

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

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a

monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

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

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

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

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

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

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

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and

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

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

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

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

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

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

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

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

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

housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

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

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

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

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

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

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

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular

Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

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

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

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

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

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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

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

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the

preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

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

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

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

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

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

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

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

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

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other

rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

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

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

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

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

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

SEC. 4. Section 65905.5 is added to the Government Code, to read:

65905.5. (a) Notwithstanding any other law, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, after the application is deemed complete, a city, county, or city and county shall not conduct more than five hearings pursuant to Section 65905, or any other law, ordinance, or regulation requiring a public hearing in connection with the approval of that housing development project. If the city, county, or city and county continues a hearing subject to this section to another date, the continued hearing shall count as one of the five hearings allowed under this section. The city, county, or city and county shall consider and either approve or disapprove the application at any of the five hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(b) For purposes of this section:

(1) “Deemed complete” means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) “Hearing” includes any public hearing, workshop, or similar meeting conducted by the city or county with respect to the housing development project, whether by the legislative body of the city or county, the planning agency established pursuant to Section 65100, or any other agency, department, board, commission, or any other designated hearing officer or body of the city or county, or any committee or subcommittee thereof.

"Hearing" does not include a hearing to review a legislative approval required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.

(3) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) For purposes of this section, a housing development project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project is consistent, compliant, or in conformity.

(2) A proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria, but the zoning for the project site is inconsistent with the general plan. If the local agency complies with the written documentation requirements of paragraph (2) of subdivision (j) of Section 65589.5, the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning that is consistent with the general plan; however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(d) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 5. Section 65913.10 is added to the Government Code, to read:

65913.10. (a) For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

(b) For purposes of this section:

(1) "Deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 6. Section 65940 of the Government Code is amended to read:

65940. (a) (1) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(2) An affected city or affected county, as defined in Section 66300, shall include the information necessary to determine compliance with the requirements of subdivision (d) of Section 66300 in the list compiled pursuant to paragraph (1).

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 7. Section 65940 is added to the Government Code, to read:

65940. (a) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) This section shall become operative on January 1, 2025.

SEC. 8. Section 65941.1 is added to the Government Code, to read:

65941.1. (a) An applicant for a housing development project, as defined in paragraph (2) of subdivision (h) of Section 65589.5, shall be deemed to have submitted a preliminary application upon providing all of the following information about the proposed project to the city, county, or city and county from which approval for the project is being sought and upon payment of the permit processing fee:

(1) The specific location, including parcel numbers, a legal description, and site address, if applicable.

(2) The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

(3) A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.

(4) The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

(5) The proposed number of parking spaces.

(6) Any proposed point sources of air or water pollutants.

(7) Any species of special concern known to occur on the property.

(8) Whether a portion of the property is located within any of the following:

(A) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.

(D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.

(9) Any historic or cultural resources known to exist on the property.

(10) The number of proposed below market rate units and their affordability levels.

(11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.

(12) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.

(13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

(14) For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:

(A) Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

(B) Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

(C) A tsunami run-up zone.

(D) Use of the site for public access to or along the coast.

(15) The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.

(16) A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

(17) The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

(b) (1) Each local agency shall compile a checklist and application form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application.

(2) The Department of Housing and Community Development shall adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application if a local agency has not developed its own

application form pursuant to paragraph (1). Adoption of the standardized form shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) A checklist or form shall not require or request any information beyond that expressly identified in subdivision (a).

(c) After submittal of all of the information required by subdivision (a), if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application that satisfies this section until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(d) (1) Within 180 calendar days after submitting a preliminary application with all of the information required by subdivision (a) to a city, county, or city and county, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.

(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.

(3) This section shall not require an affirmative determination by a city, county, or city and county regarding the completeness of a preliminary application or a development application for purposes of compliance with this section.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 9. Section 65943 of the Government Code is amended to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. 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. If the written determination is not made within 30

days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials described in subdivision (a), the public agency shall determine in writing whether the application as supplemented or amended by the submitted materials is complete and shall immediately transmit that determination to the applicant. In making this determination, the public agency is limited to determining whether the application as supplemented or amended includes the information required by the list and a thorough description of the specific information needed to complete the application required by subdivision (a). If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) Each city and each county shall make copies of any list compiled pursuant to Section 65940 with respect to information required from an applicant for a housing development project, as that term is defined in

paragraph (2) of subdivision (h) of Section 65589.5, available both (1) in writing to those persons to whom the agency is required to make information available under subdivision (a) of that section, and (2) publicly available on the internet website of the city or county.

(g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 10. Section 65943 is added to the Government Code, to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) This section shall become operative on January 1, 2025.

SEC. 11. Section 65950 of the Government Code is amended to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Sixty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a housing development project, as that term is defined in paragraph (2) of subdivision (h) of Section 65589.5.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 12. Section 65950 is added to the Government Code, to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) One hundred twenty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing,

tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a use consisting of either of the following:

(1) Residential units only.

(2) Mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50 percent of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

(e) This section shall become operative on January 1, 2025.

SEC. 13. Chapter 12 (commencing with Section 66300) is added to Division 1 of Title 7 of the Government Code, to read:

Chapter 12. Housing Crisis Act of 2019

66300. (a) As used in this section:

(1) (A) Except as otherwise provided in subparagraph (B), "affected city" means a city, including a charter city, that the Department of Housing and Community Development determines, pursuant to subdivision (e), is

in an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) Notwithstanding subparagraph (A), "affected city" does not include any city that has a population of 5,000 or less and is not located within an urbanized area, as designated by the United States Census Bureau.

(2) "Affected county" means a census designated place, based on the 2013-2017 American Community Survey 5-year Estimates, that is wholly located within the boundaries of an urbanized area, as designated by the United States Census Bureau.

(3) Notwithstanding any other law, "affected county" and "affected city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.

(4) "Department" means the Department of Housing and Community Development.

(5) "Development policy, standard, or condition" means any of the following:

(A) A provision of, or amendment to, a general plan.

(B) A provision of, or amendment to, a specific plan.

(C) A provision of, or amendment to, a zoning ordinance.

(D) A subdivision standard or criterion.

(6) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(7) "Objective design standard" means a design standard that involve no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.

(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.

(B) (i) Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a

portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium or for projects specifically identified as existing restricted affordable housing.

(ii) The affected county or affected city, as applicable, shall not enforce a zoning ordinance imposing a moratorium or other similar restriction on or limitation of housing development until it has submitted the ordinance to, and received approval from, the department. The department shall approve a zoning ordinance submitted to it pursuant to this subparagraph only if it determines that the zoning ordinance satisfies the requirements of this subparagraph. If the department denies approval of a zoning ordinance imposing a moratorium or similar restriction or limitation on housing development as inconsistent with this subparagraph, that ordinance shall be deemed void.

(C) Imposing or enforcing design standards established on or after January 1, 2020, that are not objective design standards.

(D) Except as provided in subparagraph (E), establishing or implementing any provision that:

(i) Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city, as applicable.

(ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.

(iii) Limits the population of the affected county or affected city, as applicable.

(E) Notwithstanding subparagraph (D), an affected county or affected city may enforce a limit on the number of approvals or permits or a cap on the number of housing units that can be approved or constructed if the provision of law imposing the limit was approved by voters prior to January 1, 2005, and the affected county or affected city is located in a predominantly agricultural county. For the purposes of this subparagraph, "predominantly agricultural county" means a county that meets both of the following, as determined by the most recent California Farmland Conversion Report produced by the Department of Conservation:

(i) Has more than 550,000 acres of agricultural land.

(ii) At least one-half of the county area is agricultural land.

(2) Any development policy, standard, or condition enacted on or after the effective date of this section that does not comply with this section shall be deemed void.

(c) Notwithstanding subdivisions (b) and (f), an affected county or affected city may enact a development policy, standard, or condition to prohibit the commercial use of land that is designated for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority conferred on the county or city by other law.

(d) Notwithstanding any other provision of this section, both of the following shall apply:

(1) An affected city or an affected county shall not approve a housing development project that will require the demolition of residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished.

(2) An affected city or an affected county shall not approve a housing development project that will require the demolition of occupied or vacant protected units, unless all of the following apply:

(A) (i) The project will replace all existing or demolished protected units.

(ii) Any protected units replaced pursuant to this subparagraph shall be considered in determining whether the housing development project satisfies the requirements of Section 65915 or a locally adopted requirement that requires, as a condition of the development of residential rental units, that the project provide a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households, as specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code.

(iii) Notwithstanding clause (i), in the case of a protected unit that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power, and that is or was occupied by persons or families above lower income, the affected city or affected county may do either of the following:

(I) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.

(II) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit is replaced. Unless otherwise required by the affected city or affected county's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(B) The housing development project will include at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the project site within the last five years.

(C) Any existing residents will be allowed to occupy their units until six months before the start of construction activities with proper notice, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(D) The developer agrees to provide both of the following to the occupants of any protected units:

(i) Relocation benefits to the occupants of those affordable residential rental units, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(ii) A right of first refusal for a comparable unit available in the new housing development affordable to the household at an affordable rent, as defined in Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined in 50052.5.

(E) For purposes of this paragraph:

(i) "Equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(ii) "Protected units" means any of the following:

(I) Residential dwelling units that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years.

(II) Residential dwelling units that are or were subject to any form of rent or price control through a public entity's valid exercise of its police power within the past five years.

(III) Residential dwelling units that are or were occupied by lower or very low income households within the past five years.

(IV) Residential dwelling units that were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 within the past 10 years.

(iii) "Replace" shall have the same meaning as provided in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915.

(3) This subdivision shall not supersede any objective provision of a locally adopted ordinance that places restrictions on the demolition of residential dwelling units or the subdivision of residential rental units that are more protective of lower income households, requires the provision of a greater number of units affordable to lower income households, or that requires greater relocation assistance to displaced households.

(4) This subdivision shall only apply to a housing development project that submits a complete application pursuant to Section 65943 on or after January 1, 2020.

(e) The Department of Housing and Community Development shall determine those cities and counties in this state that are affected cities and affected counties, in accordance with subdivision (a) by June 30, 2020. The department may update the list of affected cities and affected counties once on or after January 1, 2021, to account for changes in urbanized areas or urban clusters due to new data obtained from the 2020 census. The department's determination shall remain valid until January 1, 2025.

(f) (1) Except as provided in paragraphs (3) and (4) and subdivisions (h) and (i), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent specified in paragraph (2).

(2) It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that:

(A) Allows greater density.

(B) Facilitates the development of housing.

(C) Reduces the costs to a housing development project.

(D) Imposes or implements mitigation measures as necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(g) This section shall not be construed to void a height limit, urban growth boundary, or urban limit established by the electorate of an affected county or an affected city, provided that the height limit, urban growth boundary, or urban limit complies with subparagraph (A) of paragraph (1) of subdivision (b).

(h) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). For a housing development project proposed within the coastal zone, nothing in this section shall be construed to prohibit an affected county or an affected city from enacting a development policy, standard, or condition necessary to implement or amend a certified local coastal program consistent with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(i) (1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.

(2) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use on a site that is a mobilehome park, as defined in Section 18214 of the Health and Safety Code, as of the effective date of this section, and the no net loss requirement in paragraph (1) shall not apply.

(j) Notwithstanding subdivisions (b) and (f), this section does not prohibit an affected city or an affected county from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or housing types that traditionally serve lower income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control through a public entity's valid exercise of its police power.

66301. This chapter shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 14. The Legislature finds and declares that the provision of adequate housing, in light of the severe shortage of housing at all income

levels in this state, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, the provisions of this act apply to all cities, including charter cities.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 16. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

O

REDLINE Amendments to General Plan Goal 1B

MANAGEMENT AND PHASING OF GROWTH

Goal

1B Provide for the orderly development of American Canyon that maintains its distinctive character.

Objective

1.2 Promote a rate of growth that is consistent with the ability of the City to provide adequate infrastructure and services and does not adversely impact the distinctive character and quality of life in American Canyon.

Policies

1.2.1 Monitor the rates of development in the City on an annual basis and, should these show significant increases from historic averages, evaluate the appropriateness of establishing a phased program of growth. (*I 1.9* and *I 1.10*)

1.2.2 Establish as a priority the development of projects that are contiguous with and infill the existing pattern of development, avoiding leap-frog development, except for large scale master-planned projects that are linked to and planned to be extensions of existing development and for which infrastructure and services are in place or funded. (*I 1.9* and *I 1.11*)

Objective

1.3 Ensure that land use development is coordinated with the ability to provide adequate public infrastructure (transportation facilities, wastewater collection and treatment, water supply, electrical, natural gas, telecommunications, solid waste disposal, and storm drainage) and public services (governmental administrative, capital improvements, police, fire, recreational, cultural, etc.).

Policies

1.3.1 Implement public infrastructure and service improvements necessary to support land uses accommodated by the **Land Use Plan** (as defined in the **Circulation** and **Public Utilities and Services Elements**. (*I 1.4, I 1.5, I 1.8, I 1.10 I 1.13, I 1.15, and I 1.17*)

1.3.2 Require that type, amount, and location of development be correlated with the provision of adequate supporting infrastructure and services (as defined in the **Circulation** and **Public Utilities and Services Elements**. (*I 1.4, I 1.5, I 1.8, and I 1.9*)

1.3.3 Regulate the type, location, and/or timing of development as necessary in the event that there is inadequate public infrastructure or services to support land use development. (*I 1.9*)

~~1.3.4 Limit the total additional new development that can be accommodated in the City and its Urban Limit Line to the following provided that the highway improvements stipulated by the **Circulation Element** are implemented. (*I 1.9*)~~

~~**Use**~~	~~**City**~~	~~**City Urban Limit Line**~~	~~**Total**~~
~~Residential~~			
~~• Single Family~~	~~1,678 units~~	~~3,204 units~~	~~4,882 units~~
~~• Multi-Family~~	~~967 units~~	~~466 units~~	~~1,433 units~~
~~Commercial~~			
~~• Retail~~	~~607,500 square feet~~		~~607,500 square feet~~
~~• Office~~	~~270,000 square feet~~		~~270,000 square feet~~
~~Industrial~~	~~1,560,195 square feet~~	~~4,218,305 square feet~~	~~5,778,500 square feet~~

~~1.3.5 Consider increases in development capacity when it can be demonstrated that additional transportation improvements have been implemented or are funded, or demands have been reduced (based on highway level of service and vehicle trips), and such increases are consistent with community needs and desires. (*I 1.9* and *I 1.10*)~~

~~1.3.6 Monitor the capacities of other infrastructure (water, sewer, and other) and services and establish appropriate limits on development should their utilization and demands for service exceed acceptable levels or increase the cost burdens for existing residents. (*I 1.10*)~~

City of American Canyon
Active Community Development Projects
March 2023

Project Applications Under Review						
No.	**Project Name**	**Applicant**	**Description**	**Location/Area**	**Application Status**	**Planner**
1.	NVR&G Tentative Subdivision Map (PL23-0007)	McGrath Properties American Canyon	Tentative subdivision map to subdivide the proposed hotel and 30 condominiums.	Southeast corner Rolling Hills/Rio Del Mar East 18 acres	3/15/23 Application submitted	William He
2.	5555 Broadway Design Permit (PL23-0006)	Intersection	Exterior tenant and site monument sign.	5555 Broadway 7.04 acres	3/8/23 Application submitted	William He
3.	5555 Broadway Sign Program (PL23-0005)	Intersection	Cosmetic improvements and outdoor storage uses at the rear of the property.	5555 Broadway 7.04 acres	3/8/23 Application submitted	William He
4.	Crawford Way Multifamily Residential (PL23-0003)	Yeh Area Group	A 100-unit Townhome style apartment homes with sixteen 3-story buildings including a mix of 68 two-bedroom and 32 three-bedroom units.	Northwest corner Crawford Way/SR-29 4.276 acres	1/25/23 Application submitted 2/27/23 Comments to applicant	William He
5.	Napa Junction Solar Farm and RV Parking (PL23-0002)	RH Hess Development	A Design Permit for a minor utility solar farm with RV parking.	5381 Broadway 2.4 acres	1/20/23 Application submitted 2/17/23 Comments to applicant 3/14/23 Draft Initial study submitted	William He
6.	Bell Products Design Permit (PL22-0037)	Bell Products	Construction of a new 2-story, 30,297 square foot industrial building for Bell Products.	130 Dodd Court 2.28 acres	12/27/22 Application submitted 1/27/23 Comments to applicant	William He
7.	Paintball Jungle Preapplication (PL22-0036)	Paintball Jungle	Pre-staff review in advance of submitting a Conditional Use Permit for the Paintball Jungle.	2 Eucalyptus Drive 14 acres	12/28/22 Application submitted 2/15/23 Staff Site Visit 3/2/23 Comments to applicant	William He

Project Applications Under Review						
No.	**Project Name**	**Applicant**	**Description**	**Location/Area**	**Application Status**	**Planner**
8.	Promontory at Watson Ranch Subdivision, Design Permit, and Specific Plan Amendment (PL22-0033-PL22-0035)	330 Land Company LLC	Entitlements for construction of 216 single family homes, 54 deed-restricted accessory dwelling units, and a 6-acre park.	Northwest corner Newell Drive/Rio Del Mar East 27 acres residential 6 acres park	12/16/22 Application submitted 1/27/23 Comments to applicant	William He
9.	Ibarra Terminal Conditional Use Permit (PL22-0032)	Ibarra Trucking	Convert an existing residential site into a trucking office with equipment and vehicle storage.	1190 Green Island Road 1.56 acres	12/6/22 Application submitted 12/16/22 Comments to applicant	William He
10.	Napa Junction Mini-Storage Design Permit (PL22-0031)	RH Hess Development	Redevelop and industrial site into a mini-warehouse project.	4484 Hess Drive 8.41 acres	11/10/22 Application submitted 11/16/22 Applicant placed project on Hold	William He
11.	Watson Ranch Lot 8 Subdivision (PL22-0024)	American Canyon I, LLC	Development of 25 single-family residential lots in a 2.17-acre site in Watson Ranch	North of Watson Ranch Lot 10 (Harvest) Subdivision 2.17 acres	9/16/22 Application submitted 9/23/22 Comments to applicant	William He
12.	Watson Ranch Specific Plan Amendment (PL22-0023)	American Canyon I, LLC	Refinement to the Watson Ranch Specific Plan	North of Vintage Ranch 309 acres	8/26/22 Application submitted 11/16/22 Comments to applicant 12/2/22 Applicant response 12/6/22 Comments to applicant	Brent Cooper
13.	Chicken Guy Restaurant (PL22-0021)	Chandi Hospitality	A Conditional Use Permit for a 2,818 sqft quick serve drive-thru restaurant	200 American Canyon Road 1.03 acres	8/22/22 Application submitted 9/21/22 Comments to applicant 10/19/22 Project Review Meeting discussion with applicant 2/23/23 PC Hearing Continued 3/23/23 PC Hearing	William He

Project Applications Under Review						
No.	**Project Name**	**Applicant**	**Description**	**Location/Area**	**Application Status**	**Planner**
14.	Giovannoni Logistics Center Development Agreement (PL22-0018)	Buzz Oates Construction	Proposed Development Agreement to extend the term of proposed entitlements	East and West of Devlin Road, north of Green Island Road 200 acres	8/1/22 Application submitted 9/1/22 Application on hold pending entitlement approvals	Brent Cooper
15.	PG&E Regional Center Traffic Impact Fee Revision (PL22-0025)	Corporate Real Estate Strategy & Services	A proposed reduction in traffic impact fees based on a change to the project operations.	500 Boone Drive 24.51 acres	7/15/22 Application submitted 9/15/22 Comments to applicant 10/18/22 Application resubmittal 2/6/23 Comments to applicant	William He
16.	Residences at Napa Junction (PL22-0011)	American Canyon Ventures LLC	453 multi-family rental dwellings with associated parking and amenities.	1000 Reliant Way 15 acres	5/2/22 Application submitted 6/1/22 Comments to applicant 7/22/22 Application resubmitted 8/19/22 Comments to applicant 1/11/23 Application resubmitted 2/9/23 Comments to applicant	William He
17.	Sunsquare Mixed Use Building (PL21-0020)	John Howland Architect	3-story mixed-use building with 20 apt units over a 9,820 SF office	425 Napa Junction Road 1.0 acre	8/3/21 Application submitted 8/20/21 Comments to applicant 12/1/21 Applicant on 6-month hold 10/15/22 Application resubmitted 11/10/22 Comments to applicant 2/16/23 Application resubmitted	William He
18.	Giovannoni Logistics Center (PL20-0042, PL20-0043)	Buzz Oates Construction	Design Permit, Tentative Map and EIR for approximately 2.4 million sqft logistics center and Design Permit for two warehouses. Building A is 627,976 square feet; and Building B is 469,512 square feet	300 Green Island Road (Bldg A) 1200 Devlin Road (Bldg B) 70 acres	11/13/20 Application submitted 11/17/22 PC Approved 12/6/22 City Council continued hearing to 2/21/23 2/21/23 City Council hearing continued 3/21/23 City Council hearing	Brent Cooper

Project Applications Under Review						
No.	**Project Name**	**Applicant**	**Description**	**Location/Area**	**Application Status**	**Planner**
19.	Element 7 Cannabis Business Permit (PL19-0008)	Element 7	Construct a 7,000 square foot building for Cannabis manufacturing, distribution, and non-storefront retail (Delivery) business.	1300 Green Island Road	4/10/19 Application submitted 9/29/20 Application on Hold 9/20/21 Applicant confirmed Hold status	Brent Cooper
20.	Reesan Live, Inc. Cannabis Business Permit (PL19-0024)	Reesan Live, Inc.	Construct an 82,328 sqft 2-story warehouse for cannabis cultivation, manufacturing, distribution and nonstorefront retail delivery.	834 Green Island Road	8/16/19 Application submitted. 4/1/20 Project on Hold 9/20/21 Applicant confirmed Hold status	Brent Cooper

Major Building/Grading Permits					
Project Name	**Description**	**Location**	**Area**	**Status**	**Staff Liaison**
1. Napa Valley Ruins and Gardens Building Retrofit (BP23-0010)	Level 1 and level 2 retrofit of Buildings 2, 3, 4, 5, 7 at the American Canyon Ruins.	Southwest corner Rio Del Mar East/Rolling Hills Drive	29 acres	1/4/23 Application submitted 1/20/23 Comments to applicant	Tom Trimberger
2. Oat Hill Residential Building Plan Check (BP22-0733)	Plan check for the 15-Unit Apartment Building	Western terminus Napa Junction Road	N/A	1/11/23 Application submitted 2/8/23 Comments to applicant	Tom Trimberger
3. Oat Hill Residential Building Plan Check (BP22-0736)	Plan check for the 18-Unit Apartment Building	Western terminus Napa Junction Road	N/A	1/11/23 Application submitted 2/8/23 Comments to applicant	Tom Trimberger
4. SDG 217 Warehouse Building Permit (BP22-0436)	Building Permit for a 217,294 sqft warehouse	1075 Commerce Ct	10.38 acres	8/18/22 Application submitted 9/15/22 First Plan check 10/12/22 Application submitted 10/21/22 Second Plan check 12/12/22 Third submittal 12/20/22 Third Plan check comments	Tom Trimberger
5. Napa Cove Improvement Plans and Grading (DV22-0001)	Grading and Improvement plans for the Napa Cove Apartment project.	3787 Broadway	3.48 acres	1/18/22 Application submitted 2/4/22 First Plan check 3/21/22 Grading permit approved	Edison Bisnar
6. Napa Cove Building Permits (BP22-0017, 0018, 0019)	Building Permits for the Napa Cove Apartment Project	3787 Broadway	3.48 acres	1/19/22 Application submitted 2/1/22 First Plan check 3/21/22 Permits issued	Tom Trimberger
7. PG&E Regional Center Improvement Plans (DV21-0018)	Improvement plans for the PG&E Regional Center	500 Boone Drive	24.5 acres	10/19/21 Application submitted 12/01/21 First Plan Check 01/13/22 Second Plan Check 02/14/22 Third Plan Check 02/22/22 Improvement Plans Approved	Edison Bisnar

Major Building/Grading Permits					
Project Name	**Description**	**Location**	**Area**	**Status**	**Staff Liaison**
8. Watson Ranch Lot 10 Rough grading and Subdivision Improvement Plans (DV21-0014, 0015)	Rough grading and site improvements for WRSP Lot 10	Northeast corner Marcus Road/Rio Del Mar East	27.17 acres	11/08/21 Application submitted 12/08/21 First Plan Check 01/03/22 Second Submittal 01/13/22 Second Plan Check 01/21/22 Third Submittal 1/24/22 Rough Grading Permit approved	Edison Bisnar
9. Watson Ranch Lot 10 Model Home Building Permits (BP21-0522, 0523)	Model Homes for Watson Ranch Lot 10	Northeast corner Marcus Road/Rio Del Mar East	27.17 acres	12/02/21 Application submitted 12/20/21 First Plan Check 02/10/22 Second Submittal 2/18/22 Second Plan Check 4/5/22 Applicant Submittal 4/7/22 Permit approved 9/2/22 Deferred Submittal 9/7/22 Permit approved	Tom Trimberger
10. Lemos Pointe Building Permit (BP21-0291 – BP21-0298	186 modular affordable apartment units	Northwest corner Marcus Road/Rio Del Mar East	6.7 acres	6/28/21 Application submitted 11/23/21 Building Permits issued	Tom Trimberger
11. Lemos Pointe Grading Permit (DV21-0007)	Rough grading for the Lemos Point Apartment Project	Northwest corner Loop Road/Rio Del Mar	6.7 acres	6/9/21 Application submitted 8/9/21 Application approved.	Edison Bisnar
12. Watson Ranch Lot 14/15 (Artisan) Model Home Building Permits (BP21-0513, 0514, 0515)	Model Homes for Watson Ranch Lot 14/15.	Northern terminus of Summerwood	11.97 acres	11/30/21 Application submitted 5/4/22 Permits approved 9/1/22 Remaining fee payment requested	Tom Trimberger

Major Building/Grading Permits					
Project Name	**Description**	**Location**	**Area**	**Status**	**Staff Liaison**
13. Fume Commercial Cannabis Will Serve (DV20-0014)	Extend reclaimed water line to supply irrigation demand of the project.	180 Klamath Court	1.37 acres	12/16/20 Will serve and wastewater study received 1/28/21 PC approved the CUP 3/26/21 Will Serve comments to the applicant.	Edison Bisnar
14. Canyon Estates (DV18-0023)	Improvement plans, grading plans, potable water pump station plans and Final Map.	Northeast corner Silver Oak/ Newell Drive	35 acres	10/31/18 Applicant submitted 4/17/19 3rd submittal received 5/22/19 Pump station submittal received 6/13/19 Grading and Improvement Plan Comments to applicant 7/14/20 Preconstruction meeting 3/19/21 Preconstruction meeting 3/22/21 Begin Construction 11/10/22 Civil Improvements are 95% complete	Edison Bisnar
15. Copart (DV20-0008)	Grading permit for an auto storage lot and office building Conditional Use Permit PL18-0019.	1587 and 1660 Green Island Road	20 acres	4/23/20 On-site private wastewater treatment system application submitted to the County 5/12/22 Grading Permit approved 11/10/22 Civil Improvements are 75% complete	Edison Bisnar
16. Home2Suites Building Permit (BP19-0499)	Building permit for 102 room hotel.	3701 Main Street	2.0 acres	12/3/19 Application submitted 8/9/22 BP Issued	Interwest

Major Building/Grading Permits					
Project Name	**Description**	**Location**	**Area**	**Status**	**Staff Liaison**
17. Home2Suites Will Serve and Improvement Plan (DV19-0015)	Will serve application and improvement plans for a 102-room hotel.	3701 Main Street	2.0 acres	9/5/19 Will Serve Application submitted 5/25/20 Improvement Plan Application submitted 4/5/22 Council approved fee reimbursement request 8/10/22 2nd Change Plan Approved	Edison Bisnar
18. Circle K and Fuel station Improvement Plans (DV20-0003)	STEM, LLC	Improvement plans for a new Circle K fuel station and convenience store.	112 Lombard 2.25 acres	4/13/20 Application submitted 10/4/21 Grading Permit and Improvement Plans approved 2/9/23 DV Completed	Edison Bisnar
19. Circle K Fuel Station Building Permit (BP20-0457, BP20-0458)	STEM, LLC	New Circle K fuel station and convenience store.	112 Lombard 2.25 acres	10/14/20 Application submitted 10/25/21 Convenience store building permit issued 10/26/21 Gas Station canopy building permit issued 1/31/23 Temporary 30-day Certificate of Occupancy approved 2/9/23 Occupancy Approved	Interwest
20. PG&E Regional Center Improvement Plans (DV21-0018)	Turner Construction	Improvement plans for the PG&E Regional Center	500 Boone 24.5 acres	10/19/21 Application submitted 2/23/22 Improvement Plans approved	Edison Bisnar
21. Single Family Home Improvement Plans (DV21-0019)	Hoi Wong	Improvement plan for a new single-family home.	219 Rio Del Mar 0.66 acres	11/17/21 Application submitted 5/12/22 Second Plan Check comments 9/23/22 Applicant explained project is on Hold for the winter	Edison Bisnar

Major City-Initiated Projects					
Project Name	**Description**	**Location**	**Area**	**Status**	**Staff**
1. Comprehensive General Plan Update	Review and update to bring the General Plan into conformance with current State standards and community values	Citywide	N/A	7/1/19 Drafting a Request for Proposal (RFP) 1/13/22 Modified "fast-track" technical update scope approved 6/7/22 City Council NOP approved 9/1/22 Administrative draft elements reviewed by staff 3/15/23 Administrative draft EIR received.	Brent Cooper
2. 6th Cycle Housing Element Update	Consistent with State Law, update the City's Housing Policies for an 8-year period 2023 - 2031	Citywide	N/A	9/1/20 Reviewing administrative draft documents 10/18/22 Joint CC/PC workshop 1/26/23 PC Workshop 1/31/23 PC/CC Approved 2/10/23 HCD Review letter received	Brent Cooper
3. Paoli/Watson Lane Annexation (PL19-0003)	General Plan Amendment, rezoning, and annexation of the Paoli/Watson Lane Property.	Southeast of Paoli Loop/SR-29	80 acres	9/5/17 City Council authorization to proceed 5/28/20 City received a Property Owner notice of intent to circulate a petition to annex the Paoli Loop/Watson Lane Property. 5/16/22 Annexation efforts returned to City initiated. Consultant preparing CEQA scope documents. 9/7/22 NOP Comment period begins 9/21/22 NOP Workshop 3/14/23 45-Day EIR Review period begins	City Manager

4. Annual Housing Element Review	Required State review of the Housing Element	Citywide	N/A	2/23/23 PC Review completed 3/21/23 CC Review scheduled	William He
5. Accessory Dwelling Unit Ordinance Update	Update the Accessory Dwelling Unit Ordinance to comply with current State Standards	Citywide	N/A	2/7/23 HCD Review letter received 3/9/23 HCD Response Deadline 3/23/23 PC Hearing	Brent Cooper

Major Regional Projects					
Project Name	**Description**	**Location**	**Area**	**Status**	**Staff Liaison**
1. Napa Valley Transportation Authority 2045 Countywide Transportation Plan	Update the 2015 NVTA Countywide Plan with new mobility priorities for the next 25 years.	Napa County	N/A	8/19 Project Kick-off 9/19 – 01/20 Public Input 01/21 Drafting the Plan	Alberto Esqueda (NVTA)
2. Regional Working Group on Climate Change	Countywide Working Group to evaluate efforts to adopt policies that will combat climate change.	Countywide	N/A	Most recent meeting: 2/26/21 Regular ongoing meetings continue.	Brent Cooper
3. Napa Valley Transportation Authority Highway 29 PID Study	Project Initiation Document (PID) for Highway 29 through American Canyon	American Canyon	N/A	10/4/21 NVTA and American Canyon workshop 2/16/22 NVTA Board of Directors voted to remove the six-lane option from future study. 1/12/23 NVTA conducting environmental review over the next 1-2 years	Danielle Schmitz (NVTA)
4. Napa County Airport Land Use Compatibility Plan Update	Napa County Airport Land Use Compatibility Plan Update and associated CEQA documentation	Napa County Airport Compatibility Zones	N/A	January 2021 Board of Supervisors initiated Airport Land Use Compatibility Plan update 12/13/22 County selects aviation consultant Mead and Hunt 2/1/23 First working group meeting	

Senate Bill No. 330

CHAPTER 654

An act to amend Section 65589.5 of, to amend, repeal, and add Sections 65940, 65943, and 65950 of, to add and repeal Sections 65905.5, 65913.10, and 65941.1 of, and to add and repeal Chapter 12 (commencing with Section 66300) of Division 1 of Title 7 of, the Government Code, relating to housing.

[Approved by Governor October 9, 2019. Filed with Secretary of State October 9, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 330, Skinner. Housing Crisis Act of 2019.

(1) The Housing Accountability Act, which is part of the Planning and Zoning Law, prohibits a local agency from disapproving, or conditioning approval in a manner that renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based on a preponderance of the evidence in the record. The act specifies that one way to satisfy that requirement is to make findings that the housing development project or emergency shelter 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. The act requires a local agency that proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria that were in effect at the time the application was deemed to be complete, or to approve it on the condition that it be developed at a lower density, to base its decision upon written findings supported by substantial evidence on the record that specified conditions exist, and places the burden of proof on the local agency to that effect. The act requires a court to impose a fine on a local agency under certain circumstances and requires that the fine be at least $10,000 per housing unit in the housing development project on the date the application was deemed complete.

This bill, until January 1, 2025, would specify that an application is deemed complete for these purposes if a preliminary application was submitted, as described below.

Existing law authorizes the applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization to bring an action to enforce the Housing Accountability Act. If, in that action, a court finds that a local agency failed to satisfy the requirement to make the specified findings described above, existing law requires the court to issue an order or judgment compelling compliance with the act within 60 days, as specified.

This bill, until January 1, 2025, would additionally require a court to issue the order or judgment previously described if the local agency required or attempted to require certain housing development projects to comply with an ordinance, policy, or standard not adopted and in effect when a preliminary application was submitted.

Existing law authorizes a local agency to require a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, as specified.

This bill, until January 1, 2025, would, notwithstanding those provisions or any other law and with certain exceptions, require that a housing development project only be subject to the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted, except as specified.

(2) The Planning and Zoning Law, except as provided, requires that a public hearing be held on an application for a variance from the requirements of a zoning ordinance, an application for a conditional use permit or equivalent development permit, a proposed revocation or modification of a variance or use permit or equivalent development permit, or an appeal from the action taken on any of those applications. That law requires that notice of a public hearing be provided in accordance with specified procedures.

This bill, until January 1, 2025, would prohibit a city or county from conducting more than 5 hearings, as defined, held pursuant to these provisions, or any other law, ordinance, or regulation requiring a public hearing, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, as defined. The bill would require the city or county to consider and either approve or disapprove the housing development project at any of the 5 hearings consistent with the applicable timelines under the Permit Streamlining Act.

(3) The Permit Streamlining Act, which is part of the Planning and Zoning Law, requires each state agency and each local agency to compile one or more lists that specify in detail the information that will be required from any applicant for a development project. That law requires the state or local agency to make copies of this information available to all applicants for development projects and to any persons who request the information.

The bill, until January 1, 2025, for purposes of any state or local law, ordinance, or regulation that requires a city or county to determine whether the site of a proposed housing development project is a historic site, would require the city or county to make that determination, which would remain valid for the pendency of the housing development, at the time the application is deemed complete, except as provided. The bill, until January 1, 2025, would also require that each local agency make copies of any above-described list with respect to information required from an applicant for a housing development project available both (A) in writing to those

persons to whom the agency is required to make information available and (B) publicly available on the internet website of the local agency.

The Permit Streamlining Act requires public agencies to approve or disapprove of a development project within certain timeframes, as specified. The act requires a public agency, upon its determination that an application for a development project is incomplete, to include a list and a thorough description of the specific information needed to complete the application. Existing law authorizes the applicant to submit the additional material to the public agency, requires the public agency to determine whether the submission of the application together with the submitted materials is complete within 30 days of receipt, and provides for an appeal process from the public agency's determination. Existing law requires a final written determination by the agency on the appeal no later than 60 days after receipt of the applicant's written appeal.

This bill, until January 1, 2025, would provide that a housing development project, as defined, shall be deemed to have submitted a preliminary application upon providing specified information about the proposed project to the city or county from which approval for the project is being sought. The bill would require each local agency to compile a checklist and application form that applicants for housing development projects may use for that purpose and would require the Department of Housing and Community Development to adopt a standardized form for applicants seeking approval from a local agency that has not developed its own application form. After the submittal of a preliminary application, the bill would provide that a housing development project would not be deemed to have submitted a preliminary application under these provisions if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20% or more until the development proponent resubmits the information required by the bill so that it reflects the revisions. The bill would require a development proponent to submit an application for a development project that includes all information necessary for the agency to review the application under the Permit Streamlining Act within 180 days of submitting the preliminary application.

The bill, until January 1, 2025, would require the lead agency, as defined, if the application is determined to be incomplete, to provide the applicant with an exhaustive list of items that were not complete, as specified.

The Permit Streamlining Act generally requires that a public agency that is the lead agency for a development project approve or disapprove a project within 120 days from the date of certification by the lead agency of an environmental impact report prepared for certain development projects, but reduces this time period to 90 days from the certification of an environmental impact report for development projects meeting certain additional conditions relating to affordability. Existing law defines "development project" for these purposes to mean a use consisting of either residential units only or mixed-use developments consisting of residential and nonresidential uses that satisfy certain other requirements.

This bill, until January 1, 2025, would reduce the time period in which a lead agency under these provisions is required to approve or disapprove a project from 120 days to 90 days, for a development project generally described above, and from 90 days to 60 days, for a development project that meets the above-described affordability conditions. The bill would recast the definition of "development project" for these purposes to mean a housing development project, as defined in the Housing Accountability Act.

(4) The Planning and Zoning Law, among other things, requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and of any land outside its boundaries that relates to its planning. That law authorizes the legislative body, if it deems it to be in the public interest, to amend all or part of an adopted general plan, as provided. That law also authorizes the legislative body of any county or city, pursuant to specified procedures, to adopt ordinances that, among other things, regulate the use of buildings, structures, and land as between industry, business, residences, open space, and other purposes.

This bill, until January 1, 2025, with respect to land where housing is an allowable use, except as specified, would prohibit a county or city, including the electorate exercising its local initiative or referendum power, in which specified conditions exist, determined by the Department of Housing and Community Development as provided, from enacting a development policy, standard, or condition, as defined, that would have the effect of (A) changing the land use designation or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing zoning district below what was allowed under the general plan or specific plan land use designation and zoning ordinances of the county or city as in effect on January 1, 2018; (B) imposing or enforcing a moratorium on housing development within all or a portion of the jurisdiction of the county or city, except as provided; (C) imposing or enforcing new design standards established on or after January 1, 2020, that are not objective design standards, as defined; or (D) establishing or implementing certain limits on the number of permits issued by, or the population of, the county or city, unless the limit was approved prior to January 1, 2005, in a predominantly agricultural county, as defined. The bill would, notwithstanding these prohibitions, allow a city or county to prohibit the commercial use of land zoned for residential use consistent with the authority of the city or county conferred by other law. The bill would state that these prohibitions would apply to any zoning ordinance adopted or amended on or after the effective date of these provisions, and that any development policy, standard, or condition on or after that date that does not comply would be deemed void.

This bill would also require a project that requires the demolition of housing to comply with specified requirements, including the provision of relocation assistance and a right of first refusal in the new housing to displaced occupants, as provided. The bill would provide that these provisions do not supersede any provision of a locally adopted ordinance

that places greater restrictions on the demolition of residential dwelling units or that requires greater relocation assistance to displaced households. The bill would require a county or city subject to these provisions to include information necessary to determine compliance with these provisions in the list or lists that specify the information that will be required from any applicant for a development project under the Permit Streamlining Act.

The bill would state that these prohibitions would prevail over any conflicting provision of the Planning and Zoning Law or other law regulating housing development in this state, except as specifically provided. The bill would also require that any exception to these provisions, including an exception for the health and safety of occupants of a housing development project, be construed narrowly.

(5) This bill would include findings that the changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(6) By imposing various new requirements and duties on local planning officials with respect to housing development, and by changing the scope of a crime under the State Housing Law, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(7) This bill would provide that its provisions are severable.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Housing Crisis Act of 2019.

SEC. 2. (a) The Legislature finds and declares the following:

(1) California is experiencing a housing supply crisis, with housing demand far outstripping supply. In 2018, California ranked 49th out of the 50 states in housing units per capita.

(2) Consequently, existing housing in this state, especially in its largest cities, has become very expensive. Seven of the 10 most expensive real estate markets in the United States are in California. In San Francisco, the median home price is $1.6 million.

(3) California is also experiencing rapid year-over-year rent growth with three cities in the state having had overall rent growth of 10 percent or more year-over-year, and of the 50 United States cities with the highest United States rents, 33 are cities in California.

(4) California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over the next 7 years.

(5) The housing crisis has particularly exacerbated the need for affordable homes at prices below market rates.

(6) The housing crisis harms families across California and has resulted in all of the following:

(A) Increased poverty and homelessness, especially first-time homelessness.

(B) Forced lower income residents into crowded and unsafe housing in urban areas.

(C) Forced families into lower cost new housing in greenfields at the urban-rural interface with longer commute times and a higher exposure to fire hazard.

(D) Forced public employees, health care providers, teachers, and others, including critical safety personnel, into more affordable housing farther from the communities they serve, which will exacerbate future disaster response challenges in high-cost, high-congestion areas and increase risk to life.

(E) Driven families out of the state or into communities away from good schools and services, making the ZIP Code where one grew up the largest determinate of later access to opportunities and social mobility, disrupting family life, and increasing health problems due to long commutes that may exceed three hours per day.

(7) The housing crisis has been exacerbated by the additional loss of units due to wildfires in 2017 and 2018, which impacts all regions of the state. The Carr Fire in 2017 alone burned over 1,000 homes, and over 50,000 people have been displaced by the Camp Fire and the Woolsey Fire in 2018. This temporary and permanent displacement has placed additional demand on the housing market and has resulted in fewer housing units available for rent by low-income individuals.

(8) Individuals who lose their housing due to fire or the sale of the property cannot find affordable homes or rental units and are pushed into cars and tents.

(9) Costs for construction of new housing continue to increase. According to the Terner Center for Housing Innovation at the University of California, Berkeley, the cost of building a 100-unit affordable housing project in the state was almost $425,000 per unit in 2016, up from $265,000 per unit in 2000.

(10) Lengthy permitting processes and approval times, fees and costs for parking, and other requirements further exacerbate cost of residential construction.

(11) The housing crisis is severely impacting the state’s economy as follows:

(A) Employers face increasing difficulty in securing and retaining a workforce.

(B) Schools, universities, nonprofits, and governments have difficulty attracting and retaining teachers, students, and employees, and our schools and critical services are suffering.

(C) According to analysts at McKinsey and Company, the housing crisis is costing California $140 billion a year in lost economic output.

(12) The housing crisis also harms the environment by doing both of the following:

(A) Increasing pressure to develop the state's farmlands, open space, and rural interface areas to build affordable housing, and increasing fire hazards that generate massive greenhouse gas emissions.

(B) Increasing greenhouse gas emissions from longer commutes to affordable homes far from growing job centers.

(13) Homes, lots, and structures near good jobs, schools, and transportation remain underutilized throughout the state and could be rapidly remodeled or developed to add affordable homes without subsidy where they are needed with state assistance.

(14) Reusing existing infrastructure and developed properties, and building more smaller homes with good access to schools, parks, and services, will provide the most immediate help with the lowest greenhouse gas footprint to state residents.

(b) In light of the foregoing, the Legislature hereby declares a statewide housing emergency, to be in effect until January 1, 2025.

(c) It is the intent of the Legislature, in enacting the Housing Crisis Act of 2019, to do both of the following:

(1) Suspend certain restrictions on the development of new housing during the period of the statewide emergency described in subdivisions (a) and (b).

(2) Work with local governments to expedite the permitting of housing in regions suffering the worst housing shortages and highest rates of displacement.

SEC. 3. Section 65589.5 of the Government Code is amended to read:

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

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

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

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

(D) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in

disapproval of housing development projects, reduction in density of housing projects, and excessive standards for housing development projects.

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

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

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

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

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

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only one-half of California's households are able to afford the cost of housing in their local regions.

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

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

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

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

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

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

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

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

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

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

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

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the housing development project. The share of the regional housing need met by the jurisdiction shall be

calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

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

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

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

(5) The housing development project or emergency shelter is inconsistent with both the 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. For purposes of this section, a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete shall not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

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

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

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

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

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

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

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

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a

monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

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

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

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

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

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

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

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and

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

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

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

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

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

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

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

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

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

housing development project to comply with the objective standards and criteria of the zoning which is consistent with the general plan, however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

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

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

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

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

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

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

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular

Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

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

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

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

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

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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

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

(2) Paragraph (1) shall not prohibit a housing development project from being subject to ordinances, policies, and standards adopted after the

preliminary application was submitted pursuant to Section 65941.1 in the following circumstances:

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

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

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

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

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

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

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

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

(4) For purposes of this subdivision, "ordinances, policies, and standards" includes general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other

rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

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

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

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

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

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

SEC. 4. Section 65905.5 is added to the Government Code, to read:

65905.5. (a) Notwithstanding any other law, if a proposed housing development project complies with the applicable, objective general plan and zoning standards in effect at the time an application is deemed complete, after the application is deemed complete, a city, county, or city and county shall not conduct more than five hearings pursuant to Section 65905, or any other law, ordinance, or regulation requiring a public hearing in connection with the approval of that housing development project. If the city, county, or city and county continues a hearing subject to this section to another date, the continued hearing shall count as one of the five hearings allowed under this section. The city, county, or city and county shall consider and either approve or disapprove the application at any of the five hearings allowed under this section consistent with the applicable timelines under the Permit Streamlining Act (Chapter 4.5 (commencing with Section 65920)).

(b) For purposes of this section:

(1) “Deemed complete” means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) “Hearing” includes any public hearing, workshop, or similar meeting conducted by the city or county with respect to the housing development project, whether by the legislative body of the city or county, the planning agency established pursuant to Section 65100, or any other agency, department, board, commission, or any other designated hearing officer or body of the city or county, or any committee or subcommittee thereof.

"Hearing" does not include a hearing to review a legislative approval required for a proposed housing development project, including, but not limited to, a general plan amendment, a specific plan adoption or amendment, or a zoning amendment, or any hearing arising from a timely appeal of the approval or disapproval of a legislative approval.

(3) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) For purposes of this section, a housing development project shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project is consistent, compliant, or in conformity.

(2) A proposed housing development project is not inconsistent with the applicable zoning standards and criteria, and shall not require a rezoning, if the housing development project is consistent with the objective general plan standards and criteria, but the zoning for the project site is inconsistent with the general plan. If the local agency complies with the written documentation requirements of paragraph (2) of subdivision (j) of Section 65589.5, the local agency may require the proposed housing development project to comply with the objective standards and criteria of the zoning that is consistent with the general plan; however, the standards and criteria shall be applied to facilitate and accommodate development at the density allowed on the site by the general plan and proposed by the proposed housing development project.

(d) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 5. Section 65913.10 is added to the Government Code, to read:

65913.10. (a) For purposes of any state or local law, ordinance, or regulation that requires the city or county to determine whether the site of a proposed housing development project is a historic site, the city or county shall make that determination at the time the application for the housing development project is deemed complete. A determination as to whether a parcel of property is a historic site shall remain valid during the pendency of the housing development project for which the application was made unless any archaeological, paleontological, or tribal cultural resources are encountered during any grading, site disturbance, or building alteration activities.

(b) For purposes of this section:

(1) "Deemed complete" means that the application has met all of the requirements specified in the relevant list compiled pursuant to Section 65940 that was available at the time when the application was submitted.

(2) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(c) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 6. Section 65940 of the Government Code is amended to read:

65940. (a) (1) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(2) An affected city or affected county, as defined in Section 66300, shall include the information necessary to determine compliance with the requirements of subdivision (d) of Section 66300 in the list compiled pursuant to paragraph (1).

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 7. Section 65940 is added to the Government Code, to read:

65940. (a) Each public agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each public agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(b) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(c) (1) A public agency that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A public agency that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) This section shall become operative on January 1, 2025.

SEC. 8. Section 65941.1 is added to the Government Code, to read:

65941.1. (a) An applicant for a housing development project, as defined in paragraph (2) of subdivision (h) of Section 65589.5, shall be deemed to have submitted a preliminary application upon providing all of the following information about the proposed project to the city, county, or city and county from which approval for the project is being sought and upon payment of the permit processing fee:

(1) The specific location, including parcel numbers, a legal description, and site address, if applicable.

(2) The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.

(3) A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.

(4) The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.

(5) The proposed number of parking spaces.

(6) Any proposed point sources of air or water pollutants.

(7) Any species of special concern known to occur on the property.

(8) Whether a portion of the property is located within any of the following:

(A) A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178.

(B) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code.

(D) A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.

(E) A delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist, unless the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.

(F) A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code.

(9) Any historic or cultural resources known to exist on the property.

(10) The number of proposed below market rate units and their affordability levels.

(11) The number of bonus units and any incentives, concessions, waivers, or parking reductions requested pursuant to Section 65915.

(12) Whether any approvals under the Subdivision Map Act, including, but not limited to, a parcel map, a tentative map, or a condominium map, are being requested.

(13) The applicant's contact information and, if the applicant does not own the property, consent from the property owner to submit the application.

(14) For a housing development project proposed to be located within the coastal zone, whether any portion of the property contains any of the following:

(A) Wetlands, as defined in subdivision (b) of Section 13577 of Title 14 of the California Code of Regulations.

(B) Environmentally sensitive habitat areas, as defined in Section 30240 of the Public Resources Code.

(C) A tsunami run-up zone.

(D) Use of the site for public access to or along the coast.

(15) The number of existing residential units on the project site that will be demolished and whether each existing unit is occupied or unoccupied.

(16) A site map showing a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code and an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

(17) The location of any recorded public easement, such as easements for storm drains, water lines, and other public rights of way.

(b) (1) Each local agency shall compile a checklist and application form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application.

(2) The Department of Housing and Community Development shall adopt a standardized form that applicants for housing development projects may use for the purpose of satisfying the requirements for submittal of a preliminary application if a local agency has not developed its own

application form pursuant to paragraph (1). Adoption of the standardized form shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) A checklist or form shall not require or request any information beyond that expressly identified in subdivision (a).

(c) After submittal of all of the information required by subdivision (a), if the development proponent revises the project such that the number of residential units or square footage of construction changes by 20 percent or more, exclusive of any increase resulting from the receipt of a density bonus, incentive, concession, waiver, or similar provision, the housing development project shall not be deemed to have submitted a preliminary application that satisfies this section until the development proponent resubmits the information required by subdivision (a) so that it reflects the revisions. For purposes of this subdivision, "square footage of construction" means the building area, as defined by the California Building Standards Code (Title 24 of the California Code of Regulations).

(d) (1) Within 180 calendar days after submitting a preliminary application with all of the information required by subdivision (a) to a city, county, or city and county, the development proponent shall submit an application for a development project that includes all of the information required to process the development application consistent with Sections 65940, 65941, and 65941.5.

(2) If the public agency determines that the application for the development project is not complete pursuant to Section 65943, the development proponent shall submit the specific information needed to complete the application within 90 days of receiving the agency's written identification of the necessary information. If the development proponent does not submit this information within the 90-day period, then the preliminary application shall expire and have no further force or effect.

(3) This section shall not require an affirmative determination by a city, county, or city and county regarding the completeness of a preliminary application or a development application for purposes of compliance with this section.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 9. Section 65943 of the Government Code is amended to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the application is determined to be incomplete, the lead agency shall provide the applicant with an exhaustive list of items that were not complete. That list shall be limited to those items actually required on the lead agency's submittal requirement checklist. 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. If the written determination is not made within 30

days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials described in subdivision (a), the public agency shall determine in writing whether the application as supplemented or amended by the submitted materials is complete and shall immediately transmit that determination to the applicant. In making this determination, the public agency is limited to determining whether the application as supplemented or amended includes the information required by the list and a thorough description of the specific information needed to complete the application required by subdivision (a). If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) Each city and each county shall make copies of any list compiled pursuant to Section 65940 with respect to information required from an applicant for a housing development project, as that term is defined in

paragraph (2) of subdivision (h) of Section 65589.5, available both (1) in writing to those persons to whom the agency is required to make information available under subdivision (a) of that section, and (2) publicly available on the internet website of the city or county.

(g) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 10. Section 65943 is added to the Government Code, to read:

65943. (a) Not later than 30 calendar days after any public agency has received an application for a development project, the agency shall determine in writing whether the application is complete and shall immediately transmit the determination to the applicant for the development project. If the written determination is not made within 30 days after receipt of the application, and the application includes a statement that it is an application for a development permit, the application shall be deemed complete for purposes of this chapter. Upon receipt of any resubmittal of the application, a new 30-day period shall begin, during which the public agency shall determine the completeness of the application. If the application is determined not to be complete, the agency's determination shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information needed to complete the application. The applicant shall submit materials to the public agency in response to the list and description.

(b) Not later than 30 calendar days after receipt of the submitted materials, the public agency shall determine in writing whether they are complete and shall immediately transmit that determination to the applicant. If the written determination is not made within that 30-day period, the application together with the submitted materials shall be deemed complete for purposes of this chapter.

(c) If the application together with the submitted materials are determined not to be complete pursuant to subdivision (b), the public agency shall provide a process for the applicant to appeal that decision in writing to the governing body of the agency or, if there is no governing body, to the director of the agency, as provided by that agency. A city or county shall provide that the right of appeal is to the governing body or, at their option, the planning commission, or both.

There shall be a final written determination by the agency on the appeal not later than 60 calendar days after receipt of the applicant's written appeal. The fact that an appeal is permitted to both the planning commission and to the governing body does not extend the 60-day period. Notwithstanding a decision pursuant to subdivision (b) that the application and submitted materials are not complete, if the final written determination on the appeal is not made within that 60-day period, the application with the submitted materials shall be deemed complete for the purposes of this chapter.

(d) Nothing in this section precludes an applicant and a public agency from mutually agreeing to an extension of any time limit provided by this section.

(e) A public agency may charge applicants a fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

(f) This section shall become operative on January 1, 2025.

SEC. 11. Section 65950 of the Government Code is amended to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Sixty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing, tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a housing development project, as that term is defined in paragraph (2) of subdivision (h) of Section 65589.5.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

(e) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 12. Section 65950 is added to the Government Code, to read:

65950. (a) A public agency that is the lead agency for a development project shall approve or disapprove the project within whichever of the following periods is applicable:

(1) One hundred eighty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for the development project.

(2) One hundred twenty days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c).

(3) Ninety days from the date of certification by the lead agency of the environmental impact report, if an environmental impact report is prepared pursuant to Section 21100 or 21151 of the Public Resources Code for a development project defined in subdivision (c) and all of the following conditions are met:

(A) At least 49 percent of the units in the development project are affordable to very low or low-income households, as defined by Sections 50105 and 50079.5 of the Health and Safety Code, respectively. Rents for the lower income units shall be set at an affordable rent, as that term is defined in Section 50053 of the Health and Safety Code, for at least 30 years. Owner-occupied units shall be available at an affordable housing cost, as that term is defined in Section 50052.5 of the Health and Safety Code.

(B) Prior to the application being deemed complete for the development project pursuant to Article 3 (commencing with Section 65940), the lead agency received written notice from the project applicant that an application has been made or will be made for an allocation or commitment of financing,

tax credits, bond authority, or other financial assistance from a public agency or federal agency, and the notice specifies the financial assistance that has been applied for or will be applied for and the deadline for application for that assistance, the requirement that one of the approvals of the development project by the lead agency is a prerequisite to the application for or approval of the application for financial assistance, and that the financial assistance is necessary for the project to be affordable as required pursuant to subparagraph (A).

(C) There is confirmation that the application has been made to the public agency or federal agency prior to certification of the environmental impact report.

(4) Sixty days from the date of adoption by the lead agency of the negative declaration, if a negative declaration is completed and adopted for the development project.

(5) Sixty days from the determination by the lead agency that the project is exempt from the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), if the project is exempt from that act.

(b) This section does not preclude a project applicant and a public agency from mutually agreeing in writing to an extension of any time limit provided by this section pursuant to Section 65957.

(c) For purposes of paragraphs (2) and (3) of subdivision (a) and Section 65952, "development project" means a use consisting of either of the following:

(1) Residential units only.

(2) Mixed-use developments consisting of residential and nonresidential uses in which the nonresidential uses are less than 50 percent of the total square footage of the development and are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(d) For purposes of this section, "lead agency" and "negative declaration" have the same meaning as defined in Sections 21067 and 21064 of the Public Resources Code, respectively.

(e) This section shall become operative on January 1, 2025.

SEC. 13. Chapter 12 (commencing with Section 66300) is added to Division 1 of Title 7 of the Government Code, to read:

Chapter 12. Housing Crisis Act of 2019

66300. (a) As used in this section:

(1) (A) Except as otherwise provided in subparagraph (B), "affected city" means a city, including a charter city, that the Department of Housing and Community Development determines, pursuant to subdivision (e), is

in an urbanized area or urban cluster, as designated by the United States Census Bureau.

(B) Notwithstanding subparagraph (A), "affected city" does not include any city that has a population of 5,000 or less and is not located within an urbanized area, as designated by the United States Census Bureau.

(2) "Affected county" means a census designated place, based on the 2013-2017 American Community Survey 5-year Estimates, that is wholly located within the boundaries of an urbanized area, as designated by the United States Census Bureau.

(3) Notwithstanding any other law, "affected county" and "affected city" includes the electorate of an affected county or city exercising its local initiative or referendum power, whether that power is derived from the California Constitution, statute, or the charter or ordinances of the affected county or city.

(4) "Department" means the Department of Housing and Community Development.

(5) "Development policy, standard, or condition" means any of the following:

(A) A provision of, or amendment to, a general plan.

(B) A provision of, or amendment to, a specific plan.

(C) A provision of, or amendment to, a zoning ordinance.

(D) A subdivision standard or criterion.

(6) "Housing development project" has the same meaning as defined in paragraph (2) of subdivision (h) of Section 65589.5.

(7) "Objective design standard" means a design standard that involve no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application.

(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.

(B) (i) Imposing a moratorium or similar restriction or limitation on housing development, including mixed-use development, within all or a

portion of the jurisdiction of the affected county or city, other than to specifically protect against an imminent threat to the health and safety of persons residing in, or within the immediate vicinity of, the area subject to the moratorium or for projects specifically identified as existing restricted affordable housing.

(ii) The affected county or affected city, as applicable, shall not enforce a zoning ordinance imposing a moratorium or other similar restriction on or limitation of housing development until it has submitted the ordinance to, and received approval from, the department. The department shall approve a zoning ordinance submitted to it pursuant to this subparagraph only if it determines that the zoning ordinance satisfies the requirements of this subparagraph. If the department denies approval of a zoning ordinance imposing a moratorium or similar restriction or limitation on housing development as inconsistent with this subparagraph, that ordinance shall be deemed void.

(C) Imposing or enforcing design standards established on or after January 1, 2020, that are not objective design standards.

(D) Except as provided in subparagraph (E), establishing or implementing any provision that:

(i) Limits the number of land use approvals or permits necessary for the approval and construction of housing that will be issued or allocated within all or a portion of the affected county or affected city, as applicable.

(ii) Acts as a cap on the number of housing units that can be approved or constructed either annually or for some other time period.

(iii) Limits the population of the affected county or affected city, as applicable.

(E) Notwithstanding subparagraph (D), an affected county or affected city may enforce a limit on the number of approvals or permits or a cap on the number of housing units that can be approved or constructed if the provision of law imposing the limit was approved by voters prior to January 1, 2005, and the affected county or affected city is located in a predominantly agricultural county. For the purposes of this subparagraph, "predominantly agricultural county" means a county that meets both of the following, as determined by the most recent California Farmland Conversion Report produced by the Department of Conservation:

(i) Has more than 550,000 acres of agricultural land.

(ii) At least one-half of the county area is agricultural land.

(2) Any development policy, standard, or condition enacted on or after the effective date of this section that does not comply with this section shall be deemed void.

(c) Notwithstanding subdivisions (b) and (f), an affected county or affected city may enact a development policy, standard, or condition to prohibit the commercial use of land that is designated for residential use, including, but not limited to, short-term occupancy of a residence, consistent with the authority conferred on the county or city by other law.

(d) Notwithstanding any other provision of this section, both of the following shall apply:

(1) An affected city or an affected county shall not approve a housing development project that will require the demolition of residential dwelling units unless the project will create at least as many residential dwelling units as will be demolished.

(2) An affected city or an affected county shall not approve a housing development project that will require the demolition of occupied or vacant protected units, unless all of the following apply:

(A) (i) The project will replace all existing or demolished protected units.

(ii) Any protected units replaced pursuant to this subparagraph shall be considered in determining whether the housing development project satisfies the requirements of Section 65915 or a locally adopted requirement that requires, as a condition of the development of residential rental units, that the project provide a certain percentage of residential rental units affordable to, and occupied by, households with incomes that do not exceed the limits for moderate-income, lower income, very low income, or extremely low income households, as specified in Sections 50079.5, 50093, 50105, and 50106 of the Health and Safety Code.

(iii) Notwithstanding clause (i), in the case of a protected unit that is or was, within the five-year period preceding the application, subject to a form of rent or price control through a local government's valid exercise of its police power, and that is or was occupied by persons or families above lower income, the affected city or affected county may do either of the following:

(I) Require that the replacement units be made available at affordable rent or affordable housing cost to, and occupied by, low-income persons or families. If the replacement units will be rental dwelling units, these units shall be subject to a recorded affordability restriction for at least 55 years.

(II) Require that the units be replaced in compliance with the jurisdiction's rent or price control ordinance, provided that each unit is replaced. Unless otherwise required by the affected city or affected county's rent or price control ordinance, these units shall not be subject to a recorded affordability restriction.

(B) The housing development project will include at least as many residential dwelling units as the greatest number of residential dwelling units that existed on the project site within the last five years.

(C) Any existing residents will be allowed to occupy their units until six months before the start of construction activities with proper notice, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(D) The developer agrees to provide both of the following to the occupants of any protected units:

(i) Relocation benefits to the occupants of those affordable residential rental units, subject to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(ii) A right of first refusal for a comparable unit available in the new housing development affordable to the household at an affordable rent, as defined in Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined in 50052.5.

(E) For purposes of this paragraph:

(i) "Equivalent size" means that the replacement units contain at least the same total number of bedrooms as the units being replaced.

(ii) "Protected units" means any of the following:

(I) Residential dwelling units that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income within the past five years.

(II) Residential dwelling units that are or were subject to any form of rent or price control through a public entity's valid exercise of its police power within the past five years.

(III) Residential dwelling units that are or were occupied by lower or very low income households within the past five years.

(IV) Residential dwelling units that were withdrawn from rent or lease in accordance with Chapter 12.75 (commencing with Section 7060) of Division 7 of Title 1 within the past 10 years.

(iii) "Replace" shall have the same meaning as provided in subparagraph (B) of paragraph (3) of subdivision (c) of Section 65915.

(3) This subdivision shall not supersede any objective provision of a locally adopted ordinance that places restrictions on the demolition of residential dwelling units or the subdivision of residential rental units that are more protective of lower income households, requires the provision of a greater number of units affordable to lower income households, or that requires greater relocation assistance to displaced households.

(4) This subdivision shall only apply to a housing development project that submits a complete application pursuant to Section 65943 on or after January 1, 2020.

(e) The Department of Housing and Community Development shall determine those cities and counties in this state that are affected cities and affected counties, in accordance with subdivision (a) by June 30, 2020. The department may update the list of affected cities and affected counties once on or after January 1, 2021, to account for changes in urbanized areas or urban clusters due to new data obtained from the 2020 census. The department's determination shall remain valid until January 1, 2025.

(f) (1) Except as provided in paragraphs (3) and (4) and subdivisions (h) and (i), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent specified in paragraph (2).

(2) It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that:

(A) Allows greater density.

(B) Facilitates the development of housing.

(C) Reduces the costs to a housing development project.

(D) Imposes or implements mitigation measures as necessary to comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(4) This section shall not apply to a housing development project located within a very high fire hazard severity zone. For purposes of this paragraph, "very high fire hazard severity zone" has the same meaning as provided in Section 51177.

(g) This section shall not be construed to void a height limit, urban growth boundary, or urban limit established by the electorate of an affected county or an affected city, provided that the height limit, urban growth boundary, or urban limit complies with subparagraph (A) of paragraph (1) of subdivision (b).

(h) (1) Nothing in this section supersedes, limits, or otherwise modifies the requirements of, or the standards of review pursuant to, Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) Nothing in this section supersedes, limits, or otherwise modifies the requirements of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). For a housing development project proposed within the coastal zone, nothing in this section shall be construed to prohibit an affected county or an affected city from enacting a development policy, standard, or condition necessary to implement or amend a certified local coastal program consistent with the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code).

(i) (1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.

(2) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use on a site that is a mobilehome park, as defined in Section 18214 of the Health and Safety Code, as of the effective date of this section, and the no net loss requirement in paragraph (1) shall not apply.

(j) Notwithstanding subdivisions (b) and (f), this section does not prohibit an affected city or an affected county from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for lower income households, as defined in Section 50079.5 of the Health and Safety Code, or housing types that traditionally serve lower income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control through a public entity's valid exercise of its police power.

66301. This chapter shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 14. The Legislature finds and declares that the provision of adequate housing, in light of the severe shortage of housing at all income

levels in this state, is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, the provisions of this act apply to all cities, including charter cities.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 16. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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