PLANNING COMMISSION AGENDA
Lomita City Hall
Council Chambers
24300 Narbonne Avenue
Lomita, CA 90717
Phone: (310) 325-7110
Fax: (310) 325-4024

Next Resolution No. PC 2021-03

AGENDA
REGULAR MEETING
LOMITA PLANNING COMMISSION
MONDAY, MARCH 8, 2021
6:00 P.M.
VARIOUS TELECONFERENCING LOCATIONS

SPECIAL NOTICE:

Pursuant to the Governor's Executive Order N-29-20, this meeting will be held via teleconference only and no physical location from which members of the public may observe the meeting and offer public comment will be provided.

Access to the meeting will be available via URL: ***https://zoom.us/j/92585790094*** *or by phone by calling 1 (669) 900 6833. Meeting ID: 925 8579 0094*

In order to effectively accommodate public participation, participants are asked to provide their comments via e-mail before 5:00 p.m. on Monday, March 8, 2021, to l.abbott@lomitacity.com. Please include the agenda item in the subject line. All comments submitted will be read into the record until the time limit of five minutes has been reached.

All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

1. OPENING CEREMONIES

a. Call Meeting to Order
b. Roll Call

2. ORAL COMMUNICATIONS

Persons wishing to address the Planning Commission on subjects other than those scheduled are requested to do so at this time. Please provide your name and address for the record. In order to conduct a timely meeting, a 5-minute time limit per person has been established. Government Code Section 54954.2 prohibits the Planning Commission from discussing or taking action on a specific item unless it appears on a posted agenda.

3. CONSENT AGENDA

All items under the Consent Agenda are considered by the Commission to be routine and will be enacted by one motion in the form listed below. There may be separate discussions of these items prior to the time the Commissioners vote on the motion. Specific items may be removed from the Consent Agenda at the request of any Commissioner or staff.

a) APPROVAL OF MINUTES: February 8, 2021

RECOMMENDED ACTION: Approve minutes.

b) RESOLUTION NO. 2021-03, a resolution of the Planning Commission of the City of Lomita denying the Amendment to Conditional Use Permit No. 299 for the a mixed-use project consisting of 8,108 square feet of commercial area and 20 townhouse units to convert Unit 3 and Unit 4 from an office condominium to a residential condominium for property located at 25024 Narbonne Avenue and 2154 250th Street in the C-G, Commercial General zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275.

RECOMMENDED ACTION: Adopt Resolution.

PUBLIC HEARINGS

4. DISCUSSION AND CONSIDERATION OF ZONE TEXT AMENDMENT 2021-01 - THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT IS REQUESTING A ZONE TEXT AMENDMENT TO PERMIT A "BREWPUB" WITHIN THE COMMERCIAL RETAIL ZONE (C-R) SUBJECT TO A CONDITIONAL USE PERMIT.

APPLICANT: City of Lomita
PRESENTED BY: Interim Community and Economic Development Director Repp Loadsman
RECOMMENDED ACTION: Staff recommends that the Planning Commission adopt Resolution No. 2021-04 recommending that the City Council approve Zone Text Amendment No. 2021-01 and confirm the categorical exemption.

RESOLUTION PC 2021-04 A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMITA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONE TEXT AMENDMENT 2021-01, AN ORDINANCE AMENDING SECTION 11-1.48.04 TO PERMIT A "BREWPUB" WITHIN THE COMMERCIAL RETAIL (C-R) ZONE SUBJECT TO A CONDITIONAL USE PERMIT

WRITTEN COMMUNICATIONS

5. COMMUNICATIONS REGARDING CITY COUNCIL ACTIONS

SCHEDULED MATTERS

6. SELECTION OF CHAIR AND VICE-CHAIR FOR 2021 – 2022

7. HOUSING RELATED ISSUES UPDATE – Presented by Interim Community and Economic Development Director Repp Loadsman

RECOMMENDED ACTION: Staff recommends that the Planning Commission receive an update on new state housing mandates in preparation of the 6th Cycle Housing Element Update.

OTHER MATTERS

8. STAFF ITEMS – ANNOUNCEMENTS

a. Invitation to the South Bay Cities Council of Governments' 21st Annual General Assembly Virtual Conference, March 18, 2021, 9 a.m. to 4 p.m. Please register online by Thursday, February 18, 2021, at https://sbccog.swoogo.com/home.

At this free event, the South Bay COG will "examine how understanding the interrelationships of the issues we mutually face is critical to our success. Panelists representing state/local government and private/public sectors will explore new ideas, solutions and perspectives, and discuss how other regions have responded to similar circumstances."

b. Invitation for residents to participate in the Housing Element and Safety Element Survey at http://www.lomita.com/cityhall/housing-element/housing-safety-survey.cfm.

c. HdL Reports – 1) Issue Updates January 2021; and 2) City of Lomita Sales Tax Update (3rd Quarter 2020, July-September)

9. PLANNING COMMISSIONER ITEMS

10. COMMISSIONERS TO ATTEND CITY COUNCIL MEETINGS

Tuesday, April 6, 2021, and Tuesday, April 20, 2021

11. ADJOURNMENT

The next regular meeting of the Planning Commission is scheduled for Monday, April 12, 2021, at 6:00 p.m.

Written materials distributed to the Planning Commissioners within 72 hours of the Planning Commission meeting are available for public inspection immediately upon distribution in the City Clerk's office at 24300 Narbonne Avenue, Lomita, CA 90717. In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this meeting, you should contact the office of the City Clerk, (310) 325-7110 (Voice) or the California Relay Service. Notification 48-hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to this meeting.

Only comments directed to the Commission from the podium will be recognized. Comments directed to the audience or generated from the audience will be considered out of order. Any person may appeal all matters approved or denied by the Planning Commission to City Council within 30 days of receipt of notice of action by the applicant. Payment of an appeal fee is required. For further information, contact City Hall at (310) 325-7110.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted not less than 72 hours prior to the meeting at the following locations: Lomita City Hall lobby and outside bulletin board, Lomita Parks and Recreation, and uploaded to the City of Lomita website http://www.lomita.com/cityhall/city_agendas/.

Dated Posted: March 4, 2021

_____

Linda E. Abbott, Deputy City Clerk/Planning Secretary

MINUTES
REGULAR MEETING
LOMITA PLANNING COMMISSION
MONDAY, FEBRUARY 8, 2021

1. OPENING CEREMONIES

a. Chair Cammarata called the meeting to order at 6:08 p.m. via teleconference pursuant to Governor Newsom's Executive Order N-29-20 issued on March 17, 2020.

b. Roll Call

Responding to the roll call by Deputy City Clerk Abbott were Commissioners Dever, Steinbach, Thompson, Vice-Chair Graf, and Chair Cammarata. Also present were Assistant City Attorney Lauren Langer, Assistant Planner Laura MacMorran, Planning Intern James Dotson, and Interim Community and Economic Development Director Sheri Repp Loadsman.

PRESENT: COMMISSIONERS: Dever, Steinbach, Thompson, Vice-Chair Graf, and Chair Cammarata

ABSENT: COMMISSIONERS: Santos

2. ORAL COMMUNICATIONS

None

3. CONSENT AGENDA

a) APPROVAL OF MINUTES: November 9, 2020

RECOMMENDED ACTION: Approve minutes.

Commissioner Steinbach made a motion, seconded by Vice-Chair Graf, to approve the minutes of the November 9, 2020, Planning Commission meeting.

MOTION CARRIED by the following vote:

AYES: COMMISSIONERS: Dever, Steinbach, Vice-Chair Graf, and Chair Cammarata
NOES: COMMISSIONERS: None
ABSENT: COMMISSIONERS: Santos
ABSTAIN: COMMISSIONERS: Thompson

PUBLIC HEARINGS

4. **AMENDMENT TO CONDITIONAL USE PERMIT NO. 299**, a request to modify a mixed-use project consisting of 20 residential condominiums and 5 office condominiums to reduce the required percentage of nonresidential uses by converting Unit 3 and Unit 4 from an office condominium to residential condominiums allowing for live/work space, and to confirm the categorical exemption, located at 2154 250th Street, in the C-G, Commercial General Zone, Mixed-Use Overlay District.

   Chair Cammarata recused himself due to the proximity of his business to the project site. He left the Zoom meeting.

   Interim Community and Economic Development Director Repp Loadsman presented the staff report as per the agenda material.

   Vice-Chair Graf opened the public hearing at 6:38 p.m.

   Cherine Medawar, the applicant, addressing the installation of kitchens without permits in two of the commercial spaces stated that City Code does not forbid placement of cabinets, and the gate was installed as a security measure, with permits pulled. As market conditions have changed due to the pandemic and offices are not leasing, he wanted a Planning Commission recommendation for the best use for the building, and stated that live-work is a use Lomita allows on Narbonne.

   Gerald Compton, the project architect, stated that the building was designed so each unit would be sold separately but the market has changed due to the pandemic.

   Commissioner Thompson expressed concerns that this project has become primarily residential in actual use, as indicated by the installation of kitchens and closets. He stated that the obvious disregard for prior approval is also a concern. He added that for commercial use, customers should be able to drive right onto the property and not use a gate with a callbox.

   Mr. Medawar stated that there is nothing in the City Code prohibiting closets or cabinets, and that he pulled a permit for sink installation. He stated that he had been trying to get in front of the Planning Commission to request approval for the amendment for about a year.

   Interim Director Repp Loadsman stated that there have been numerous discussions between staff and the applicant but that the application had not been submitted until recently. She clarified that cabinets do not require a building permit but cooking facilities such as stoves do and the applicant did not apply for such permits.

   Mr. Compton stated that customers can easily be let into the parking lot via the callbox at the gate. He added that he and his client had worked with the former Community and Economic Development Director for six months without getting anywhere so they shifted to the live-work style for the project.

   George Kivett, a Lomita resident, spoke in support of the project and stated that residential units with small workspaces are a good idea for the foreseeable future.

   Steve Connelly, a resident at the project site, spoke in support of the project. He stated that the callbox at the gate presents no problems and is easy for both residents and customers. He added that it is a beautiful building, with people onsite 24-7 which creates a sense of community.

   Inga Demetra, a dance studio owner at Unit 4, spoke in support of the requested amendment, and added that the gate presented no issues.

Alex Perez, a resident at the project site, spoke in support of the project amendment, and stated that it would allow for more businesses to survive due to owners not having to pay multiple rents.

Simon Mattox, Vice President of CBRE, emailed in support of the amended project. He stated that the outlook is uncertain for office space in the area for the foreseeable future due to the pandemic, so a wider range of uses should be allowed.

Jill Medawar, project co-owner, stated that more people are working from home due to the pandemic, and that the commercial elevator at the site provides access to the second floor for everyone.

Mr. Medawar stated his appreciation for the Planning Commission's support and thanked them for their consideration.

Mr. Compton stated that due to the proximity to commercial enterprises, residential soundproofing was required and Mr. Medawar did a very good job on that.

Vice-Chair Graf closed the public hearing at 7:23 p.m.

Commissioner Steinbach expressed his displeasure with the direction the project is going with an emphasis on residential. He added that the project would not have been approved in the first place without the commercial element, and that work without approval and permits is very concerning.

Commissioner Thompson stated that live-work is different from mixed use, and it is clear that these units will be used as residences, which was not as approved.

Commissioner Dever stated her concern regarding setting a precedent where mixed-use is essentially redefined.

Chair Graf stated that working from home is not the same as mixed-use.

Commissioner Thompson made a motion, seconded by Commissioner Steinbach, without need for further discussion or a continuation of the public hearing, to direct staff to return at the next Planning Commission meeting with a resolution to deny the applicant's request for the amendment.

MOTION CARRIED by the following vote:

AYES:	COMMISSIONERS:	Dever, Steinbach, Thompson, and Vice-Chair Graf
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Santos
RECUSED:	COMMISSIONERS:	Chair Cammarata

Chair Cammarata returned to the Zoom meeting.

5. **AMENDMENT TO CONDITIONAL USE PERMIT NO. 309**, a request to modify a conditional use permit for a 3,500 square foot brewery with tasting room to add a 1,100 square foot pizza kitchen and to designate the associated use as a "Brew Pub," and to confirm the categorical exemption, located at 2308 Pacific Coast Highway, in the C-R, Commercial Retail Zone.

Interim Community and Economic Development Director Repp Loadsman presented the staff report as per the agenda material.

Chair Cammarata opened the public hearing at 8:00 p.m.

George Kivett, a Lomita resident, spoke in support of onsite food service at the brewpub. He added that parking is not a problem there.

Chris Cook, a Lomita resident, spoke in support of an onsite kitchen. He added that parking is not an issue there, and many customers use ride share services.

Brenton Reger, the applicant, stated that most nearby businesses have opposite hours from theirs which makes parking a non-issue. He added that U.S. Bank next door allows his customers to park there after hours. The brewery has been closed for nearly 10 months of the pandemic due to not having a kitchen.

Chair Cammarata closed the public hearing at 8:10 p.m.

Vice-Chair Graf made a motion, seconded by Commissioner Thompson, to adopt the resolution of approval subject to findings and conditions, and confirm that the project is exempt from CEQA requirements.

MOTION CARRIED by the following vote:

AYES:	COMMISSIONERS:	Dever, Steinbach, Thompson, Vice-Chair Graf, and Chair Cammarata
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Santos

6. **SITE PLAN REVIEW No. 1208**, a request to permit the construction of eight townhomes amongst four, three-story buildings, with 19 parking spaces, and a modification from Section 11-1.30.07 of the Lomita Municipal Code (LMC) to permit an eight foot wall along the northern property line to exceed the allowed six foot maximum, located at 26109 Narbonne Avenue in the RVD-1500 (Residential Variable Density) Zone and to confirm the categorical exemption.

   Planning Intern Dotson and Assistant Planner MacMorran presented the staff report as per the agenda material.

   Chair Cammarata opened the public hearing at 8:27 p.m.

   George Kivett, a Lomita resident, spoke in support of the project and stated that it is a special situation in that it is adjacent to the Sheriff's station.

   Peter Frederiksen, the applicant, stated that he had lost track of time but looks forward to moving ahead with the project. He thanked City staff for their assistance.

   Chair Cammarata closed the public hearing at 8:31 p.m.

   Commissioner Steinbach made a motion, seconded by Vice-Chair Graf, to adopt the resolution of approval subject to findings and conditions, and confirm that the project is exempt from CEQA requirements.

   MOTION CARRIED by the following vote:

AYES: COMMISSIONERS: Dever, Steinbach, Thompson, Vice-Chair Graf, and Chair Cammarata
NOES: COMMISSIONERS: None
ABSENT: COMMISSIONERS: Santos

WRITTEN COMMUNICATIONS

7. COMMUNICATIONS REGARDING CITY COUNCIL ACTIONS

None

OTHER MATTERS

8. STAFF ITEMS – ANNOUNCEMENTS

a. Invitation to the South Bay Cities Council of Governments' 21st Annual General Assembly Virtual Conference, March 18, 2021, 9 a.m. to 4 p.m. Please register online by Thursday, February 18, 2021, at https://sbccog.swoogo.com/home.

At this free event, the South Bay Cities Council of Governments will "examine how understanding the interrelationships of the issues we mutually face is critical to our success. Panelists representing state/local government and private/public sectors will explore new ideas, solutions and perspectives, and discuss how other regions have responded to similar circumstances."

b. Other Announcements – None

9. PLANNING COMMISSIONER ITEMS

Vice-Chair Graf asked the status of the RV storage project on Lomita Boulevard. Assistant Planner MacMorran stated that its Building and Safety approvals have expired, they are working on extensions, and that they have provided a letter of interest from a bank.

Chair Cammarata asked that the Planning Commission be updated on the project at its next meeting.

Commissioner Dever thanked staff for all their hard work, especially with Mr. Medawar's requested amendment.

Commissioner Thompson thanked Commissioner Steinbach for sharing his insight gained from his career with the City of Los Angeles Building and Safety Department.

Chair Cammarata stated that Mr. Medawar's project at Pacific Coast Highway and Cypress Street needs graffiti removal. He added that the Picerne development is doing a good job of cleaning up daily and minimizing dust and noise, but traffic in that area will be a nightmare.

In response to questions from Vice-Chair Graf, Interim Director Repp Loadsman stated that Picerne had requested to work from 8 p.m. to 5 a.m. in an effort to alleviate some of the traffic issues, staff will evaluate to determine if night shift noise would be problematic to nearby residents. She added that Picerne has an agreement with the City to allow its employees to park at designated City-owned properties to prevent them from parking in neighborhoods near the project.

Chair Cammarata commended City parking enforcement officer Alejandro Ramirez for addressing red zone parking near his residence. He stated that he wanted to bring this ongoing problem to the City's attention.

10. COMMISSIONERS TO ATTEND CITY COUNCIL MEETINGS

Commissioner Steinbach will attend the City Council meeting on Tuesday, March 2, 2021. Commissioner Thompson will attend the Tuesday, March 16, 2021, City Council meeting.

11. ADJOURNMENT

There being no further business to discuss, the meeting was adjourned by Chair Cammarata at 8:44 p.m.

Attest:

_____
Linda E. Abbott
Deputy City Clerk/Planning Secretary

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission March 8, 2021

FROM: Sheri Repp Loadsman, Interim Community & Economic Development Director

SUBJECT: Resolution No. 2021-03 Denying the Amendment to Conditional Use Permit No. 299

BACKGROUND

The applicant is requesting an amendment to Conditional Use Permit No. 299 to modify a mixed-use project consisting of 20 residential condominiums and 5 office condominiums to convert Unit 3 and Unit 4 from an office condominium to residential condominiums allowing for a live/work designation for property located at 2154 250th street, in the C-G, Commercial General zone, Mixed-Use Overlay District. Filed by Cherine Medawar.

On February 8, 2021, the Planning Commission held a duly noticed public hearing, accepted testimony for and against the proposed project and at the conclusion of the public hearing voted to deny the requested modification and instructed staff to prepare a resolution of denial.

RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. 2021-03 denying the Amendment to Conditional Use Permit No. 299 for the a mixed-use project consisting of 8,108 square feet of commercial area and 20 townhouse units to convert Unit 3 and Unit 4 from an office condominium to a residential condominium for property located at 25024 Narbonne Avenue and 2154 250th Street in the C-G, Commercial General zone.

Exhibits

1. Draft Resolution
2. Planning Commission Staff Report dated February 8, 2021

RESOLUTION NO. PC 2021-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMITA DENYING THE AMENDMENT TO CONDITIONAL USE PERMIT NO. 299 FOR THE A MIXED-USE PROJECT CONSISTING OF 8,108 SQUARE FEET OF COMMERCIAL AREA AND 20 TOWNHOUSE UNITS TO CONVERT UNIT 3 AND UNIT 4 FROM AN OFFICE CONDOMINIUM TO A RESIDENTIAL CONDOMINIUM FOR PROPERTY LOCATED AT 25024 NARBONNE AVENUE AND 2154 250TH STREET IN THE C-G, COMMERCIAL GENERAL ZONE. FILED BY CHERINE MEDAWAR, 3453 NEWRIDGE DRIVE, RANCHO PALOS VERDES, CA 90275.

Section 1. Recitals

A. The Planning Commission of the City of Lomita has considered an application for amendment to Conditional Use Permit No. 299 for the mixed-use project consisting of 8,108 square feet of commercial space and 20 townhouse units to convert Unit 3 and Unit 4 from an office condominium to a residential condominium for property located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275., ("Developer"), in accordance with Articles 3 and 8, Chapter 2 of Title XI of the Lomita Municipal Code.

B. The subject site is located in the C-G (Commercial General), Mixed-Use Overlay District and is designated "mixed-use" by the City's General Plan. Pursuant to Section 11-1.58.04 of the Lomita Municipal Code, a conditional use permit is required for all new mixed-use projects located within the Mixed-Use Overlay District.

C. On July 5, 2016, the City Council approved Conditional Use Permit No. 299 and Tentative Tract Map (VTTM) No. 073720 for 8,325 sq. ft. of commercial space and 20 townhouse units. At the hearing the Council approved the project with the condition that the elevations be revised to reflect more traditional craftsman architectural style as opposed to the Mediterranean architectural style, which was proposed to the satisfaction of the Community Development Director. On June 12, 2017, the Community Development Director approved architectural revisions with no revisions to the site plan.

D. On October 30, 2017, the Community Development Department approved a minor modification application to reduce the commercial square footage from 8,325 to 8,108 to comply with the Los Angeles County Fire Department's requirement of a five-foot setback from the south property line, as shown on the plans received on October 26, 2017.

E. On February 8, 2021, the Planning Commission held a duly noticed public hearing, accepted testimony for and against the proposed project and at the conclusion of the public hearing voted to deny the requested modification and instructed staff to prepare a resolution of denial.

Section 2. Pursuant to Section 11-1.70.09 (Conditional Use Permit) of the Lomita Municipal Code, the City Council finds, after due study and deliberation that the following circumstances exist:

1) The proposed use is allowed within the District with approval of a CUP and complies with all other applicable requirements of this Article.

The mixed-use project consists of 20 townhomes and 8,108 square feet of commercial space. Mixed-use development of this nature is permitted within the C-G/Mixed-Use Overlay zone with approval of a CUP. The project complies with all the development standards required by Code and as approved by Conditional Use Permit No. 299.

Pursuant to Section 11-1.58.06(l) of the Lomita Municipal Code, deviations from mixed-use standards may be considered through the conditional use permit process. Conditional Use Permit No. 299 included approval of a deviation to reduce the percentage of non-residential uses for a mixed-use project from 30 percent to 21.2 percent based upon the limited frontage on Narbonne Avenue. The applicant requests an amendment to Conditional Use Permit No. 299 to further reduce the percentage of non-residential uses for the mixed-use project from 21.2 percent to approximately 12 percent. The applicant contends that current market conditions do not support the use of Unit 3 and Unit 4 for commercial uses, including the initial targeted use of the spaces for contractor offices. The applicant states that the COVID-19 pandemic has altered the demand for brick and mortar businesses causing difficulty in finding suitable tenants for the five commercial spaces provided in the mixed-use project.

While the COVID-19 pandemic has caused disruption to the operation of various commercial businesses, the applicant has rented Unit 1, Unit 3 and Unit 5. Only Unit 2 and Unit 4 are presently vacant. The current market conditions are not deemed to be a permanent hinderance on the ability of Unit 3 and Unit 4 to be utilized for commercial purposes. The amount of commercial has already been reduced below standards and a sufficient justification has not been made to support a further reduction.

2) The proposed use is consistent with the General Plan.

The General Plan designates this site as Mixed-Use. The existing mixed-use development with commercial and residential townhomes is consistent with the mixed-use general plan land use designation and meets density and floor area ratio requirements as approved by Conditional Use Permit No. 299. The mixed-use project was deemed eligible for a reduction in the percentage of non-residential space at the time of approval of Conditional Use Permit No. 299. The applicant seeks to convert two of the five commercial spaces to residential use thereby further reducing the percentage of non-residential space.

Pursuant to Land Use Policy 7 in the Lomita General Plan, commercial development and employment opportunities will be promoted to maintain a sound economic base and to stimulate investment in the City. The reduction of commercial space in the mixed-use project will lessen the amount of commercial activity and employment along the

Narbonne Avenue Mixed-Use Corridor and is not consistent with the general plan land use designation. The subject property has attracted tenants to three of the five commercial tenant spaces and is anticipated to achieve full commercial occupancy with reasonable marketing efforts.

3) *The design, location, size, and operating characteristics are compatible with existing and future land uses, building and structures in the vicinity and the proposed use will not jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare or be materially detrimental to the property of other persons located in the vicinity.*

The project is mixed-use, consisting of commercial and residential components. It is compatible with the existing commercial/residential uses which currently exist within the Commercial General Zone and Mixed-Use Overlay District on Narbonne Avenue. The commercial portion of the project fronts along Narbonne Avenue with the townhomes located on the rear portion of the subject site. Approval of Conditional Use Permit No. 299 determined the mixed-use project not to be detrimental to other property or persons in the vicinity. Based on the mixed use designation for the site, the appropriate operating characteristics are required to support a mix of residential and commercials and the proposal would create more residential uses than is appropriate or reasonable for this area.

Section 3. The Planning Commission of the City of Lomita hereby denies the Modification to Conditional Use Permit No. 299 because all of the findings for a conditional use permit amendments cannot be made in the affirmative.

PASSED and ADOPTED by the Planning Commission of the City of Lomita on this 8th day of March, 2021 by the following vote:

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:

_____
Steven Cammarata, Chair

ATTEST:

_____
Sheri Repp Loadsman
Interim Community and Economic Development Director

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission February 8, 2021

FROM: Sheri Repp Loadsman, Interim Community & Economic Development Director

SUBJECT: Amendment to Conditional Use Permit No. 299

PROJECT DESCRIPTION
The applicant is requesting an amendment to Conditional Use Permit No. 299 to modify a mixed-use project consisting of 20 residential condominiums and 5 office condominiums to convert Unit 3 and Unit 4 from an office condominium to residential condominiums allowing for a live/work designation for property located at 2154 250th street, in the C-G, Commercial General zone, Mixed-Use Overlay District. Filed by Cherine Medawar.

RECOMMENDATION
Staff recommends that the Planning Commission open the public hearing, provide direction related to the requested amendment to Conditional Use Permit No. 299 and continue the public hearing to March 8, 2021.

BACKGROUND
On June 13, 2016, the Planning Commission recommended that the City Council adopt a resolution approving Conditional Use Permit No. 299 and Tentative Tract Map (VTTM) No. 073720 subject to conditions.

On the July 5, 2016, the City Council approved Conditional Use Permit No. 299 and Tentative Tract Map (VTTM) No. 073720 for 8,325 sq. ft. of commercial space and 20 townhouse units. At the hearing the Council approved the project with the condition that the elevations be revised to reflect more traditional "craftsman" architecture as opposed to the Mediterranean design which was proposed, to the satisfaction of the Community Development Director. On June 12, 2017, the Community Development Director approved architectural revisions with no revisions to the site plan.

On October 30, 2017, the Community Development Department approved a minor modification application to reduce the commercial square footage from 8,325 to 8,108 to comply with the Los Angeles County Fire Department's requirement of a five-foot setback from the south property line, as shown on the plans received on October 26, 2017.

Existing Condition

The subject property consists of two parcels: 25024-6 Narbonne Ave., and 2154 250th St. The smaller parcel of 4,952 square feet fronts onto Narbonne Avenue. The frontage along Narbonne Ave. is only 50 feet making this a very narrow commercial lot. The parcel fronting on 250th St. is 40,116 square feet. The total site area is 45,068 square feet.

The project consists of a three-story, commercial building with 5 units and 20 three-story townhome units. The commercial building is 8,108 square foot in size, inclusive of the garage area, elevator, public hallway and commercial units. Excluding the garage space of 1,322 square feet, the commercial use is 6,786 square feet. The Community Development Department approved plans to locate gates at the entrance from Narbonne Avenue and 250th Street. As a result, both the residential, commercial and guest/customer parking spaces are accessible only by a security code or permission to enter.

The 20 residential condominiums have been completed and are currently being leased as apartments. The commercial building has obtained an interim authorization to occupy the tenant spaces pending completion of work remaining in order to obtain a final certificate of occupancy. Units 1, 3 & 5 have been rented.

Description:

Use	Size of Existing Units or Buildings	Parking Provided per Unit	Total Parking
Residential Townhomes			40 enclosed parking spaces
20 units (3 bedroom/2 bath)	1,910 SF each	Two-car, enclosed garage	
Total Building Area	38,200 SF		
Commercial			7 enclosed parking spaces
Unit 1	385 SF	None	
Unit 2	1,112 SF	One-car, enclosed garage	
Unit 3	1,240 SF	Two-car, enclosed garage	
Unit 4	1,240 SF	Two-car, enclosed garage	
Unit 5	1,106 SF	Two-car, enclosed garage	
Total Building Area inclusive of Garages, Circulation, Second Floor and Mezzanine	8,108 SF		
Guest/Customer			19 unenclosed parking spaces
Total	46,308 SF		66 parking spaces (including 3 handicap spaces)

Analysis

In 2007 the City Council passed the Mixed-Use Ordinance permitting residential uses in conjunction with commercial uses along certain areas of Narbonne Avenue and Lomita Blvd. The ordinance contains development standards specific to mixed-use projects including requiring the project to have a 30% commercial to residential ratio. Lomita Municipal Code Sec. 11-1.58.06. – (Standards of development) allows deviations from mixed-use development standards to be considered through the conditional use permit process.

The most traditional live work units place the living quarters above the business space, but that is not always the case. The living space may also be alongside the commercial space or behind it. An artist's loft might simply be a bedroom over a studio. Generally, a live-work unit offers similar advantages to a home office. However, it is often easier to prove eligible tax deductions to the Internal Revenue Service for a live-work unit than a home office, because live/work zoning makes it apparent that your residential unit is partly comprised of commercial space.

Four mixed-use development have been approved in the Lomita Mixed-Use District and each has requested and received a reduction to the required commercial to residential ratio. The development that includes Burnin' Daylight Brewery has 5 apartments within the mixed-use building. One apartment is designated as live/work with commercial space located on the first floor and living area on the second and third floors. Similarly, the Brownstone Development, currently under construction, incorporates 4 live/work units with commercial on the first floor and living area above. In both cases, the commercial area of the live/work units appear as functional commercial space with opportunity for direct public access and business signage.

The 250th Street/Narbonne Multi-Use Project is not a typical mixed-use development in that the commercial units are restricted in terms of access and lack visibility to Narbonne Avenue. Unit 1 is the only commercial unit that provides storefront orientation from Narbonne Avenue. However, the size of the unit is only 385 square feet, there is no designated parking for the unit and on-site commercial parking is shared with the guest parking for the residential units. The remaining four units are located behind Unit 1 with access from a pedestrian door from Narbonne Avenue and an elevator providing access to the second floor. The expectation was for small contractors and service type uses to seek occupancy of the four units.

To date, Unit 1 has been leased by an event rental business, Unit 3 by a dance studio and Unit 5 for office use. Units 2 & 4 are vacant. A site inspection was conducted of all 5 units. Unit 1 appears to be used only for storage at this time. The applicant states the business will be open to the public by appointment once operations become more normalized. Unit 3 is actively used as a dance studio and includes full length mirrors, changing room, office and lounge area. Unit 4 is vacant. Unit 3 and Unit 4 were identified to have unauthorized construction associated with the installation of full kitchens that have since been removed. Unit 5 was vacant at the time of inspection, but a tenant recently obtained a business license for office use of the unit. Unit 5 was the focus of a code enforcement activity in 2020 when the applicant attempted to rent the space as a residential use.

Request to Convert to a Live Work Designation

The applicant requests to convert Units 3 & 4 to allow for a live/work designation. The justification relates to poor market conditions and difficulties in attracting suitable commercial tenants. The applicant submitted plans, dated June 11, 2020, showing the division of residential and live/work space as summarized below:

Commercial Units	Existing Commercial SF	Proposed Commercial SF	Proposed Residential SF
Unit 1	385 SF	No change	None
Unit 2	1112 SF	No change	None
Unit 3	1240 SF	194 SF	1046 SF
Unit 4	1240 SF	194 SF	1046 SF
Unit 5	1106 SF	No change	None

If approved, an amendment to Conditional Use Permit No. 299 would specifically authorize the conversion of Units 3 & 4 as live/work space. This amendment would necessitate a finding to justify the further reduction in the minimum percentage of non-residential uses. Based upon the Applicant's calculations, which count the garages as part of the commercial building area[1], the percentage of non-residential uses would decrease from 21.2% to 12% as follows:

Development Standard	Approved Project	Allowed/Required	Requested	Compliance
Density	20 units	22 units per acre	22 units	Yes
Minimum Lot Size	45,068	10,000		Yes
Minimum % of Non-Residential Uses	21.2%*	30%	12%**	Subject to review and approval by Planning Commission

**20 units @ 1910 SF/Unit = 38,200 SF X 21.2% = 8,108 SF commercial use*

*** 46,308 SF combined residential use X 12% = 5,566 SF commercial use (per applicant's plan of 6/11/20). Actual commercial ratio is smaller if garage space excluded from calculation.*

Discussion

There are a number of considerations that should be discussed relating to applicant's request to convert Units 3 & 4 to a live/work designation. In reviewing the applicant's request the Commission may consider the compatibility of the project with the intended zoning of the City, the conformance with the general plan, unique characteristics of the site and benefits to the City from the proposal.

[1] Garage space is not typically included in this calculation. Without the garage, the commercial use would constitute approximately 17.8 % of the square footage based upon the current approved uses and would further reduce if any commercial unit is authorized to convert to a residential use.

- During consideration of the project, there was recognition that the design and location of the commercial units was not typical. The likely tenants were identified as small contractors and service-related businesses. While 3 of the 5 commercial spaces have been leased, the applicant seeks a live/work designation to enhance the marketability and value of each unit.

- The design of the commercial units limits the types of tenants due to the lack of visibility, limited number of parking spaces and poor access to employee or customer parking.

- By comparison with other live/work units approved in Lomita, the proposed changes to Units 3 & 4 do not meet the same live/work standard as proposed. Inclusion of residential uses in Units 3 & 4 may be more accurately described as a residential use with a home occupation since the work area is identified as a small portion of the living area on the second floor and an office on the mezzanine level. The office on the mezzanine level appears intended to be utilized as a bedroom since the room is provided with a closet and a door for privacy.

- Contrary to the approved plans, Units 3 & 4 have been improved with full kitchens. An amendment or modification to Conditional Use Permit No. 299 could be approved to allow for the retention of the kitchens subject to obtaining the necessary building permits. A kitchen may be utilized within an office or commercial use. However, if bathing facilities, such as a shower or bath are added, the use is completely effectively converted to residential.

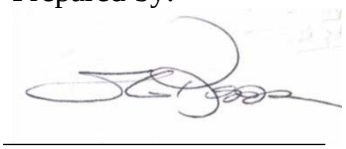
- Market conditions have been significantly impacted due to the COVID-19 pandemic. The Planning Commission should consider if a change from commercial to a live/work or residential designation would be justified based upon current or anticipated future conditions.

- The Planning Commission should consider the precedent that may be set if the percentage of non-residential uses is decreased to the level proposed.

- The Planning Commission should consider if there are other community benefits that could be identified to justify the conversion of commercial space to a live/work or residential designation.

- The Planning Commission must discuss and identify findings necessary to support an intended action to approve, deny or modify the requested amendment to Conditional Use Permit No. 299.

Prepared by:



Sheri Repp Loadsman
Interim Community and Economic
Development Director

Exhibits

1. City Council Staff Report dated July 5, 2016, Signed Resolution & Minutes
2. Vicinity Map
3. Zoning Maps
4. General Plan Map
5. Aerial Photograph
6. Live/Work Plans dated June 11, 2020
7. Live/Work Justification from Applicant

EXHIBIT 1

CITY OF LOMITA
CITY COUNCIL REPORT

Item No. 9

TO: City Council

FROM: Ryan Smoot, City Manager

REVIEWED BY: Gary Y. Sugano, Assistant City Manager

PREPARED BY: Alicia Velasco, Principal Planner

MEETING DATE: July 5, 2016

SUBJECT: Consideration of Conditional Use Permit No. 299 and Tentative Tract Map No. 073720, for a mixed-use project consisting of 8,325 square feet of commercial area and 20 townhouse units.

RECOMMENDATION

Adopt resolutions approving Conditional Use Permit No. 299 and Tentative Tract Map No. 073720, to permit a mixed-use project consisting of 8,325 square feet of commercial area, 20 townhouse units, and 61 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone.

BACKGROUND

On June 13, 2016, the Planning Commission by a 4-1-1-1 vote (Roehm No, Cammarata Recused, Hoy Absent) recommended that the City Council adopt a resolution approving Conditional Use Permit No. 299 and Tentative Tract Map (VTTM) No. 073720 subject to the attached conditions. Staff has initiated a coordinated review of both the Conditional Use Permit and the Tentative Tract Map request in order for the City Council to review the project in its entirety.

The City utilized the new engineering consultant for review of the tentative map as opposed to Los Angeles County. After a few rounds of corrections the consultant notified City staff of their review and approval of the map subject to provided conditions.

Existing Conditions

The subject property consists of two parcels: 25024-6 Narbonne Ave., and 2154 250th St. The smaller parcel fronts onto Narbonne Ave., consists of 4,952 square feet and contains two residential units built in 1920 and 1924. The frontage along Narbonne Ave. is only 50 feet making this a very narrow commercial lot. The parcel fronting on 250th St. is 40,116 square feet and contains one single family residential unit and a

nonconforming storage yard to the rear. There are no permits for this use. The total lot area is 45,068 square feet.

Project Description

The applicant is proposing to construct a new three-story, 8,325 square foot commercial building and 20 three-story townhome units. All townhome units will have fully enclosed individual two-car garages. The commercial building fronts Narbonne Avenue and provides 21 unenclosed parking spaces which meets the requirement for both uses individually although there will be shared parking.

The project went before the Commission in November of 2015 for a preliminary review. At that time the Commission wanted to see modifications to the site plan; including the reduction of one unit and enhance provided parking. The applicant returned to the Commission in December with the changes and the Commission provided the applicant with direction to proceed with filing for tentative map approval. Lastly the conditional use permit and map went before the Commission last month for a formal public hearing in which the Commission recommended Council approval. Staff has attached the Planning Commission reports and minutes dated November 9, 2015; December 14, 2015; and June 13, 2016 which provides detailed descriptions of the project.

The proposed project provides 8,325 square feet of commercial space which equates to a commercial ratio of 20.03%. The mixed-use ordinance recommends a 30% commercial ratio; however this can be reduced through the conditional use permit process. Therefore the applicant is proposing a 9.97% reduction in the amount of required commercial area. Staff can support this reduction since there is limited frontage on Narbonne Ave. The project site is deep and narrow and there is little demand for commercial uses which do not front onto a main thoroughfare. Another concern with this location is the lack of a vehicular signal by the project. Most vehicles will quickly drive past the project whereby reducing its visibility from a commercial stand point even more. Staff would not recommend requiring additional commercial space for the sake of meeting the commercial/residential ratio. This would create additional un-rentable commercial space.

Environmental Determination

In accordance with Section 15332 (In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines, projects characterized as in-fill development meeting the conditions described in that section may be found to be exempt from the requirements of CEQA. The proposed mixed-use project consists of 8,325 square feet of commercial space and 20 residential units for a total building area of 48,179 square feet. The development is fully located within the City limits, is on less than five acres, is consistent with the applicable General Plan and Zoning designations, is fully served by all required utilities, and the site has no value for sensitive or endangered habitat. Staff has determined that there is no substantial evidence that the project may have a significant effect on the environment and is requesting Council confirm the Categorical Exemption.

Public Notice

Notices of this hearing dated June 21, 2016 were mailed to property owners within 300 feet of the subject property. This notice was also posted on the subject site, Lomita City Hall, and Lomita Park.

OPTIONS:

1. Approve staff's recommendation.

2. Do not approve the resolution.

3. Give staff alternative direction.

FISCAL IMPACT

If approved, the City would receive permit-related fees from the proposed building permits and development and water infrastructure impact fees. The estimated amount would be based on the project valuation, generally between one and two percent of the valuation of the project. Additionally, once occupied the commercial component of the project would generate revenue from business license fees.

ATTACHMENTS

1) Resolutions
2) Planning Commission Resolution 2016-09
3) Vicinity Map
4) General Plan Map
5) Zoning Map
6) Aerial Photograph
7) Notice of Exemption
8) Tentative Tract Map
9) Project Plans
10) Planning Commission Staff Reports and Minutes dated November 9, 2015; December 14, 2015; and staff report only for June 13, 2016

Reviewed by:

Gary Y. Sugano
Assistant City Manager

Approved by:

Ryan Smoot
City Manager

Prepared by:

Alicia Velasco
Principal Planner

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMITA APPROVING CONDITIONAL USE PERMIT NO. 299 FOR THE DEVELOPMENT OF A PROPOSED MIXED-USE PROJECT CONSISTING OF 8,325 SQUARE FEET OF COMMERCIAL AREA, 20 TOWNHOUSE UNITS, AND 61 PARKING SPACES LOCATED AT 25114-25118 NARBONNE AVE IN THE C-G, COMMERCIAL GENERAL ZONE. FILED BY CHERINE MEDAWAR, 3453 NEWRIDGE DRIVE, RANCHO PALOS VERDES, CA 90275.

Section 1. Recitals

A. The City Council of the City of Lomita has considered an application for Conditional Use Permit No. 299 and a Tentative Tract Map No. 073720 for the development of a proposed mixed-use project consisting of 8,325 square feet of commercial space, 20 townhouse units, and 61 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275., ("Developer"), in accordance with Articles 3 and 8, Chapter 2 of Title XI of the Lomita Municipal Code.

B. On July 5, 2016, the City Council held a duly noticed public hearing and accepted testimony for and against the proposed project.

C. The subject site is zoned C-G (Commercial General) and designated "mixed-use" by the City's General Plan. Pursuant to Section 11-1.58.04 of the Lomita Municipal Code, a conditional use permit is required for all new mixed-use projects.

D. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the City's General Plan.

E. In accordance with Section 15332 (In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines, projects characterized as in-fill development meeting the conditions described in that section may be found to be exempt from the requirements of CEQA. The proposed mixed-use project consists of 8,325 square feet of commercial space and 20 residential units for a total building area of 48,179 square feet. The development is fully located within the City limits, is on less than five acres, is consistent with the applicable General Plan and Zoning designations, is fully served by all required utilities, and the site has no value for sensitive or endangered habitat. The City Council has determined that there is no substantial evidence that the project may have a significant effect on the environment, and confirms the categorical exemption.

F. The Planning Commission held a duly noticed public hearing on June 13, 2016, and accepted testimony for and against the proposed project.

G. The City Council finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

Section 2. Pursuant to Section 11-1.70.09 (Conditional Use Permit) of the Lomita Municipal Code, the City Council finds, after due study and deliberation that the following circumstances exist:

1) *The proposed use is allowed within the District with approval of a CUP and complies with all other applicable requirements of this Article.*

The proposed mixed-use project consists of 20 townhomes and 8,325 square feet of commercial space. Mixed-use development of this nature is permitted within the C-G/Mixed-Use Overlay zone with approval of a CUP. The project complies with all the development standards required by Code.

2) *The proposed use is consistent with the General Plan.*

The General Plan designates this site as Mixed-Use. The proposed project, a mixed-use development with commercial and residential townhomes is consistent with the mixed-use general plan land use designation and meets density and floor area ratio requirements.

3) *The design, location, size, and operating characteristics are compatible with existing and future land uses, building and structures in the vicinity and the proposed use will not jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare or be materially detrimental to the property of other persons located in the vicinity.*

The proposed project is mixed-use, consisting of commercial and residential components. It is compatible with the existing commercial/residential uses which currently exist within the Commercial General Zone. The commercial portion of the project is proposed to front along Narbonne Ave. with the townhomes located on the rear portion of the lot. This will create the walkable environment envisioned by the mixed use overlay and bring new housing to support existing businesses in the Commercial General Zone. The project meets all applicable development standards and is consistent with the general plan. The project provides more than the required ten-foot setback from the residential neighbors to the rear of the property to aid as a buffer. Further, the proposed residential uses will be more compatible with the adjacent residential uses than some of the permitted commercial uses allowed within this zone. For these reasons the project will not be detrimental to other property or persons in the vicinity.

4) *The site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features*

prescribed in this chapter, or as required as a condition in order to integrate the use with the uses in the neighborhood.

The project site is adequate to accommodate the project as demonstrated by its compliance with applicable City codes.

5) The site is serviced by highways and streets adequate to carry the kind and quality of traffic such use would generate.

The project site will be accessed from Narbonne Avenue which is a designated secondary highway within the City. A traffic study was prepared for the project and found that the primary intersection of impact (Narbonne Ave. and 250th St) would continue to operate at LOS "A" after project build-out and no mitigation measures were required.

Section 3. The City Council of the City of Lomita hereby approves Conditional Use Permit No. 299 subject to the following conditions:

GENERAL PROJECT CONDITIONS

1. The conditions of approval within Planning Commission Resolution No. 2016-09

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lomita hereby approves Conditional Use Permit No. 299. The decision of the City Council is final and conclusive as to all things involved.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2016 by the following vote:

AYES: Council Members:

NOES:

ABSSENT:

_____
Jim Gazeley
Mayor

ATTEST:

_____
Sandra M. Medina,
City Clerk

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMITA APPROVING TENTATIVE TRACT MAP NO. 073720 FOR THE DEVELOPMENT OF A PROPOSED MIXED-USE PROJECT CONSISTING OF 8,325 SQUARE FEET OF COMMERCIAL AREA, 20 TOWNHOUSE UNITS, AND 61 PARKING SPACES LOCATED AT 25114-25118 NARBONNE AVE IN THE C-G, COMMERCIAL GENERAL ZONE. FILED BY CHERINE MEDAWAR, 3453 NEWRIDGE DRIVE, RANCHO PALOS VERDES, CA 90275.

Section 1. Recitals

A. The City Council of the City of Lomita has considered an application for Conditional Use Permit No. 299 and a Tentative Tract Map No. 073720 for the development of a proposed mixed-use project consisting of 8,325 square feet of commercial space, 20 townhouse units, and 61 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275, ("Developer"), in accordance with Articles 3 and 8, Chapter 2 of Title XI of the Lomita Municipal Code.

B. On July 5, 2016, the City Council held a duly noticed public hearing and accepted testimony for and against the proposed project.

C. Said tentative map has been reviewed by the City's Engineer with recommended conditions of approval.

D. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the City's General Plan.

E. In accordance with Section 15332 (In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines, projects characterized as in-fill development meeting the conditions described in that section may be found to be exempt from the requirements of CEQA. The proposed mixed-use project consists of 8,325 square feet of commercial space and 20 residential units for a total building area of 48,179 square feet. The development is fully located within the City limits, is on less than five acres, is consistent with the applicable General Plan and Zoning designations, is fully served by all required utilities, and the site has no value for sensitive or endangered habitat. The City Council has determined that there is no substantial evidence that the project may have a significant effect on the environment, and confirms the categorical exemption.

F. The Planning Commission held a duly noticed public hearing on June 13, 2016, and accepted testimony for and against the proposed project.

G. The City Council finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

Section 2. The City Council of the City of Lomita hereby approves Tentative Tract Map No. 073720 subject to the following conditions:

GENERAL PROJECT CONDITIONS

1. The conditions of approval within Planning Commission Resolution No. 2016-09

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lomita hereby approves Vesting Tentative Tract Map No. 073720. The decision of the City Council is final and conclusive as to all things involved.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2016 by the following vote:

AYES: Council Members:

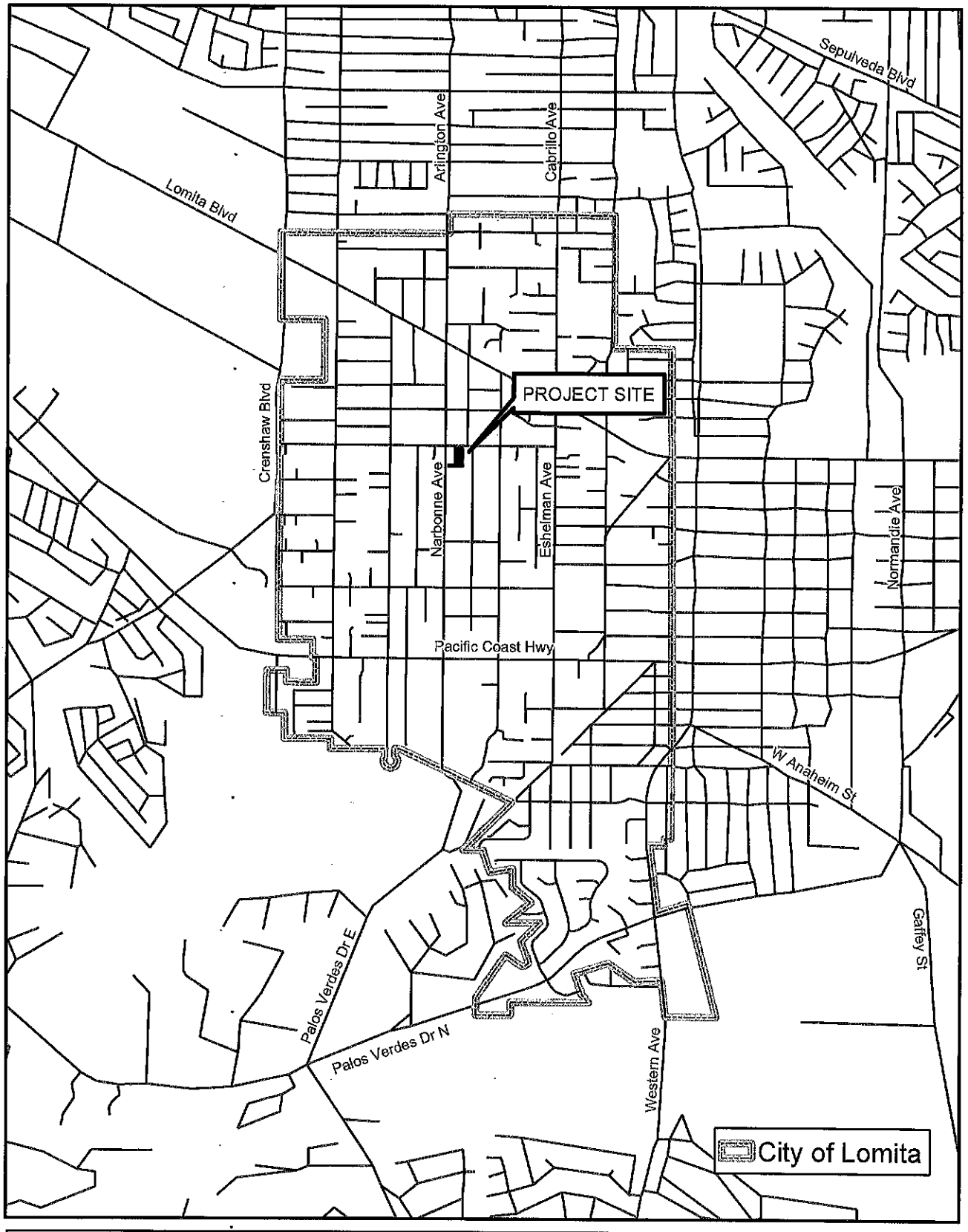
NOES:

ABSENT:

_____
Jim Gazeley,
Mayor

ATTEST:

_____
Sandra M. Medina,
City Clerk



Conditional Use Permit No. 229
Vesting Tentative Tract Map No. 73720
2154 250th Street & 25024 Narbonne Avenue

Community Development
Gary Sugano, Asst. City Manager
June 2016

Source: Lomita GIS Data Layers, TIGER Files
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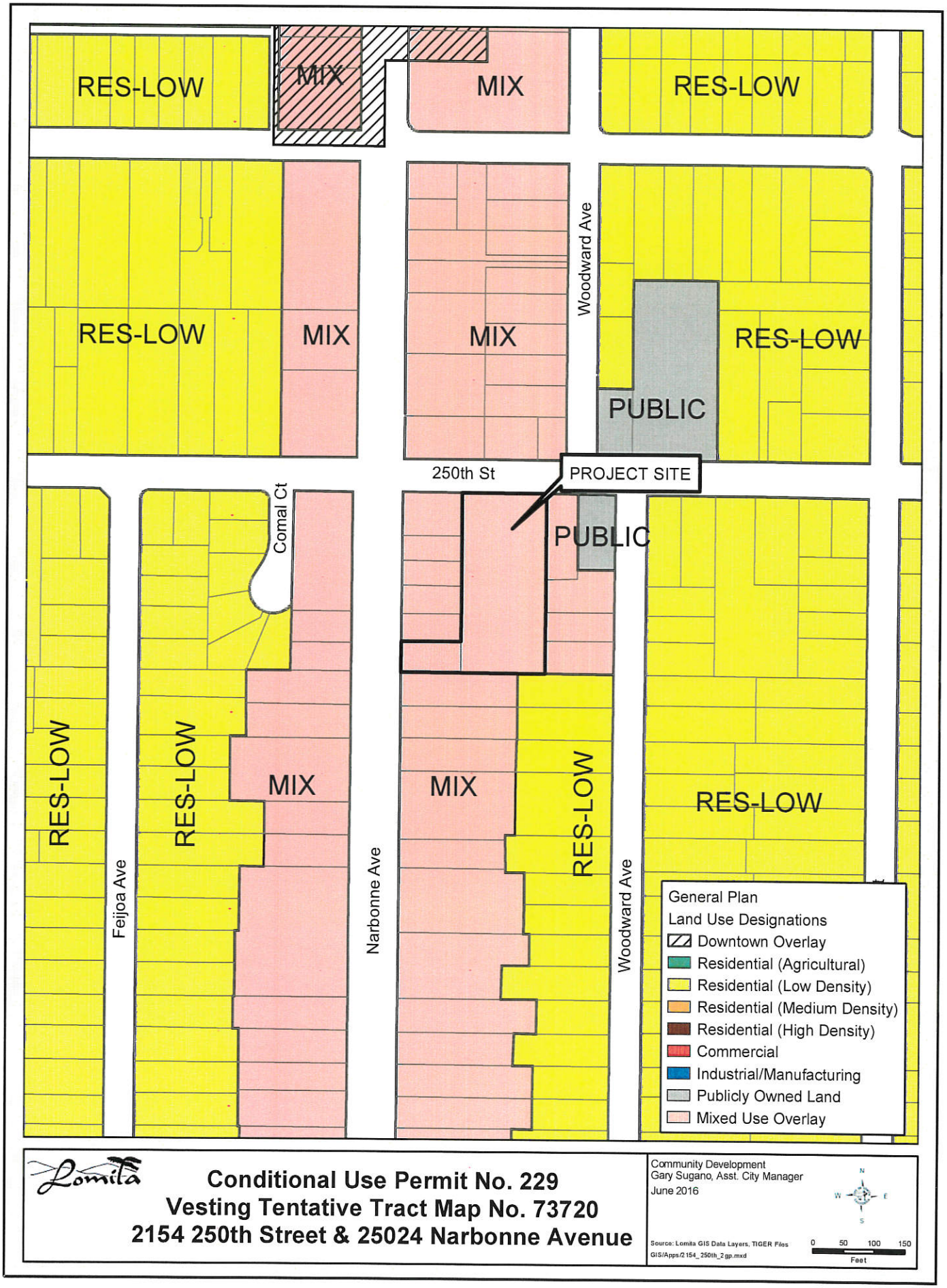

Lomita

Conditional Use Permit No. 229
Vesting Tentative Tract Map No. 73720
2154 250th Street & 25024 Narbonne Avenue

Community Development
Gary Sugano, Asst. City Manager
June 2016

Source: Lomita GIS Data Layers, TIGER Files
GIS/Apps/2154_250th_2gp.mxd

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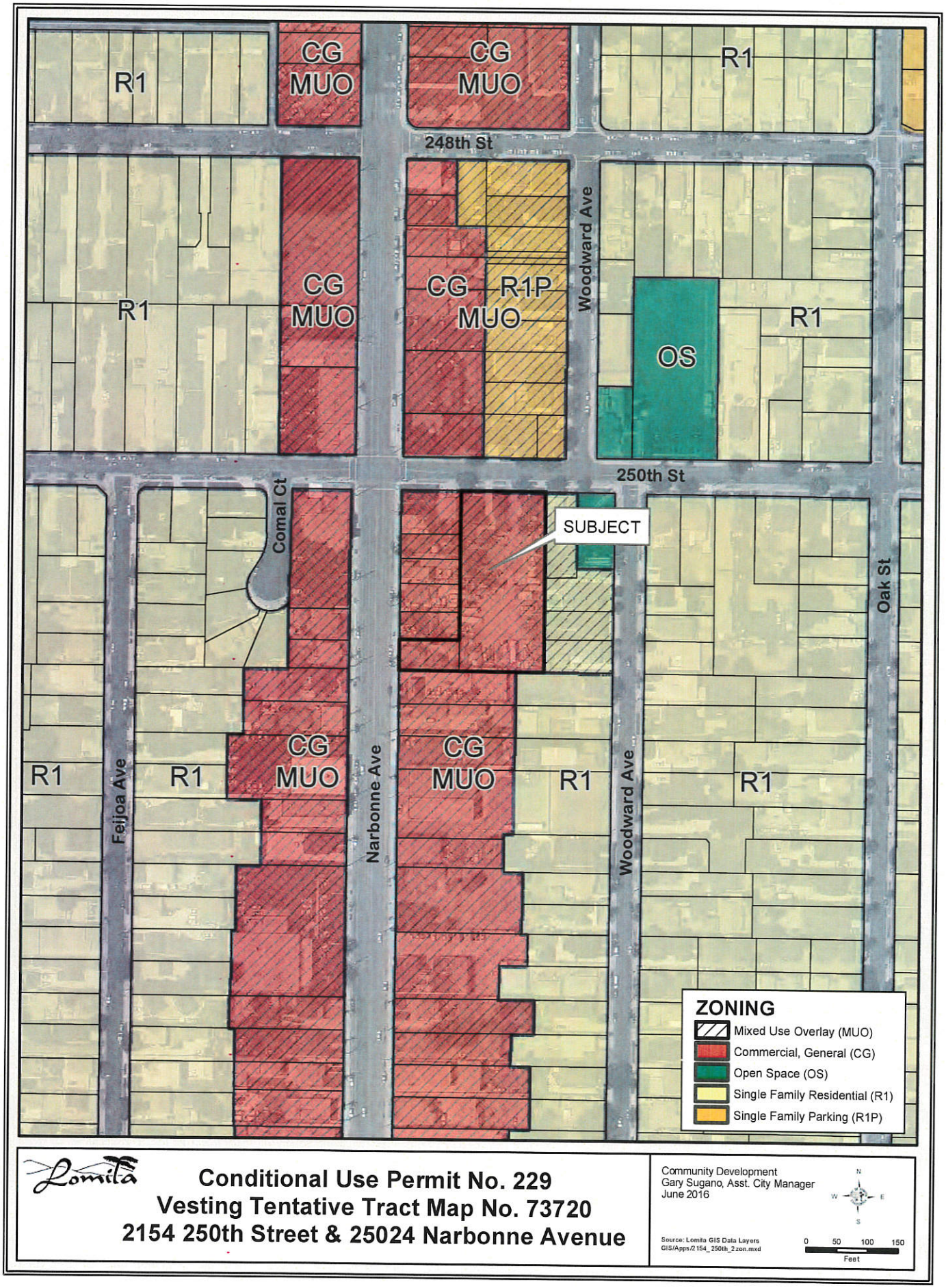

Lomita

Conditional Use Permit No. 229
Vesting Tentative Tract Map No. 73720
2154 250th Street & 25024 Narbonne Avenue

Community Development
Gary Sugano, Asst. City Manager
June 2016

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Source: Lomita GIS Data Layers
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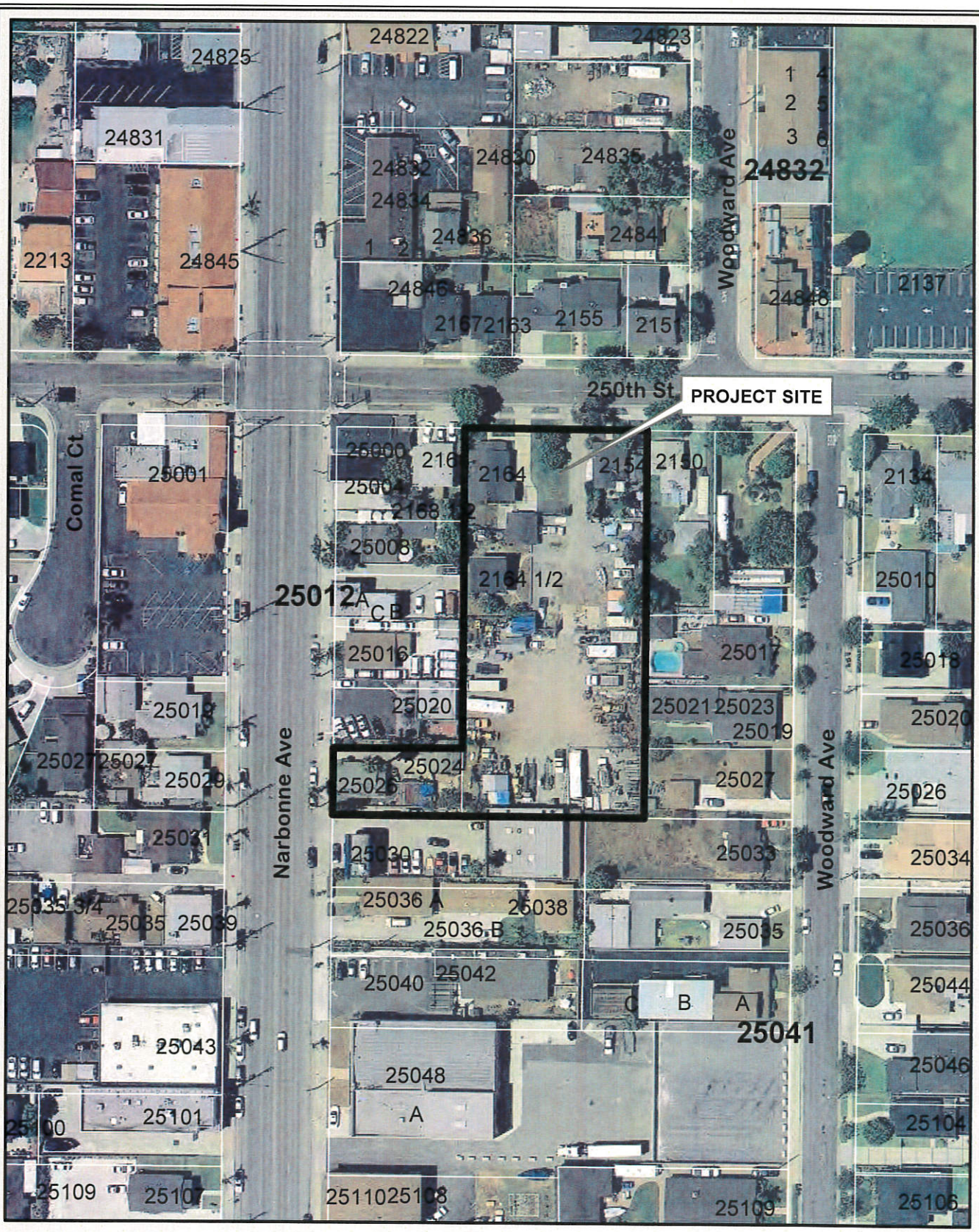


Lomita

Conditional Use Permit No. 229
Vesting Tentative Tract Map No. 73720
2154 250th Street & 25024 Narbonne Avenue

Community Development
Gary Sugano, Asst. City Manager
June 2016

Source: Lomita GIS Data Layers
GIS/Apps/2154_ 250th_2.aer.mxd

0 50
Feet

Community Development Department
Planning Division
24300 Narbonne Avenue
Lomita, CA 90717
310/325-7110
FAX 310/325-4024

NOTICE OF EXEMPTION

Project Description:

Conditional Use Permit No. 299 & Vesting Tentative Tract Map No. 73720– a request for a Conditional Use Permit and a Tentative Tract Map for the development of a proposed mixed-use project consisting of 8,325 square feet of commercial area and 20 townhouse units, located at 25024 Narbonne Ave., and 2154 250th St in the C-G, Commercial General Zone. Filed by Cherine Medewar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275.

Finding:

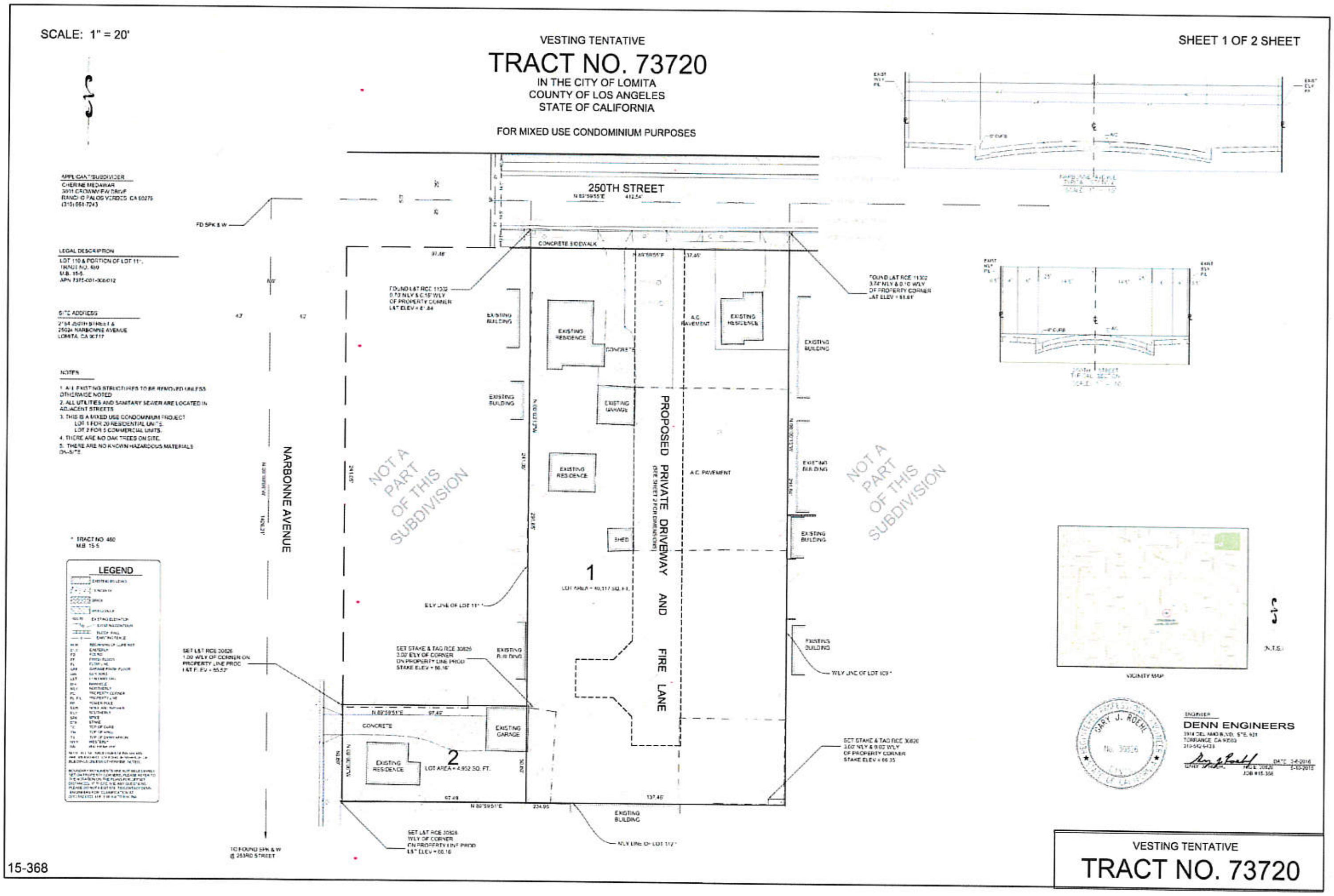
The Planning Division of the Community Development Department of the City of Lomita has reviewed the above proposed project and found it to be exempt from the provisions of the California Environmental Quality Act (CEQA).

- ☐ Ministerial Project
- ☒ Categorical Exemption (CEQA Guidelines, Section 15332, In-fill development projects)
- ☐ Statutory Exemption
- ☐ Emergency Project
- ☐ Quick Disapproval [CEQA Guidelines, Section 15270]
- ☐ No Possibility of Significant Effect [CEQA Guidelines, Section 15061(b)(3)]

Supporting Reasons: In accordance with Section 15332 (In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines, projects characterized as in-fill development meeting the conditions described in that section may be found to be exempt from the requirements of CEQA. The proposed mixed-use project consists of 8,325 square feet of commercial space and 20 residential units for a total building area of 48,179 square feet. The development is fully located within the City limits, is on less than five acres, is consistent with the applicable General Plan and Zoning designations, is fully served by all required utilities, and the site has no value for sensitive or endangered habitat. Staff has determined that there is no substantial evidence that the project may have a significant effect on the environment.

(Date)

Alicia Velasco
Principal Planner


SCALE: 1" = 20'
VESTING TENTATIVE
TRACT NO. 73720
IN THE CITY OF LOMITA
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA
FOR MIXED USE CONDOMINIUM PURPOSES
SHEET 1 OF 2 SHEET
APPLICANT/SUBDIVIDER
CHERINE MEDAWAR
LEGAL DESCRIPTION
LOT 110 & PORTION OF LOT 111,
M.B. 15-5.
SITE ADDRESS
NARBONNE AVENUE
LOMITA, CA
NOTES
2. ALL UTILITIES AND SANITARY SEWER ARE LOCATED IN ADJACENT STREETS
3. THIS IS A MIXED USE CONDOMINIUM PROJECT
LOT 1 FOR 20 RESIDENTIAL UNITS.
LOT 2 FOR 5 COMMERCIAL UNITS.
4. THERE ARE NO OAK TREES ON SITE.
5. THERE ARE NO KNOWN HAZARDOUS MATERIALS ON-SITE.
LEGEND
250TH STREET
NARBONNE AVENUE
CONCRETE SIDEWALK
EXISTING BUILDING
EXISTING RESIDENCE
EXISTING GARAGE
A.C. PAVEMENT
PROPOSED PRIVATE DRIVEWAY AND FIRE LANE
NOT A PART OF THIS SUBDIVISION
NOT A PART OF THIS SUBDIVISION
SHED
1
2
CONCRETE
LOT AREA = 4,952 SQ. FT.
EXISTING BUILDING
VICINITY MAP
DENN ENGINEERS
VESTING TENTATIVE
TRACT NO. 73720
15-368

SHEET INDEX

SHEET NO	SHEET TITLE
ARCHITECTURAL	
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A4.1.2	COMMERCIAL BUILDING FLOOR / ROOF PLAN
A4.2A	BUILDING 6 FLOOR PLAN – UNIT A – 1/4" SCALE
A4.2B	BUILDINGS 1,2&4 FLOOR PLANS – UNITS A-B
A4.2C	BUILDING 3 FLOOR PLAN – UNIT C-D – 1/4" SCALE
A4.2D	BUILDING 3 FLOOR PLANS – UNITS A-B-C-D
A4.2E	BUILDING 5 FLOOR PLANS – UNITS E-H– 1/4" SCALE
A4.2F	BUILDING 5 FLOOR PLANS – UNITS E-F-G-H
A5.1	COMMERCIAL BUILDING ELEVATIONS
A5.2.1	RESIDENTIAL ELEVATIONS
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A6.1.1-2	COMMERCIAL SECTIONS
A6.2.1-4	RESIDENTIAL SECTIONS
MECHANICAL ENGINEERING	
PLUMBING ENGINEERING	
ELECTRICAL ENGINEERING	
CIVIL ENGINEERING	
C1	SURVEY
TM1-2	TRACT MAPS
STRUCTURAL ENGINEERING	

COMMERCIAL BUILDING

RESIDENTIAL CONDOMINIUMS

PROPOSED MULTI-USE

CONDOMINIUM PROJECT

2154 250TH STREET AND 25024 NARBONNE AVE
LOMITA, CALIFORNIA 90717

PROPOSED 20 UNIT RESIDENTIAL CONDOMINIUM AND
5 UNIIT COMMERCIAL CONDOMINIUM PROJECT

SCOPE OF WORK

Demolish existing structures on site and construct new residential and commercial condominium units on the site as shown.

CONSULTANTS

ARCHITECT:	GERALD W. COMPTON AIA 1230 ARTESIA BLVD. STE 300 HERMOSA BEACH, CA Phone (310) 379-8222 Email: [illegible]
STRUCTURAL ENGINEER:	CCD ENGINEERS [illegible] MERRIDAY AVE CHATSWORTH, Ca [illegible] Phone: [illegible]
SOILS ENGINEER:	WESTERN LABORATORIES [illegible] W. 27TH STREET TORRANCE, Ca [illegible] Phone: [illegible]
CIVIL ENGINEER:	DENN ENGINEERING [illegible] DEL AMO BLVD. STE [illegible] TORRANCE, Ca [illegible] Phone: [illegible]
TITLE 24 CALCULATIONS: MECHANICAL ENGINEER: ELECTRICAL ENGINEER: PLUMBING ENGINEER:	PERFECT DESIGN & DEV. INC. [illegible] W. Valley Blvd. Alhambra, Ca [illegible] Phone: [illegible] Email: perfectAAA@aol.com

Legal Description

Assessor ID No: 7375-001-008
Assessor ID No: 7375-001-012

Code Research

Zoning	Multi-use Zone - (Residential Area)
Setbacks	
Front	20'-0"
Sides	East side - 10'-0" Westside - 5'-0"
Rear	5'-0" Eastside 0'-0" Westside
Height Limit	35'-0" Max - (50' by CBC)
Type of Construction	VB Sprinklered
Number of Stories	3 (increase allowed per sec 504.2
Maximum Area	9000 sf - [illegible]
Occupancy Class	R2 / U
Zoning	Multi-use Zone - (Commercial Area)
Setbacks	
Front	None
Sides	None
Rear	None
Height Limit	35'-0" Max - (40' by CBC)
Type of Construction	VB Sprinklered
Number of Stories:	3 (increase allowed per sec 504.2
Maximum Area:	9000 sf - sk
Occupancy Class:	B / U

MULTI-USE

ISSUANCE
PLANNING REVIEW 7-20-15 2-10-16 FIRE DPT REVIEW 4-28-16

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FIRE DPT REVISIONS 5-10-16

COVER PAGE – SHEET INDEX

250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

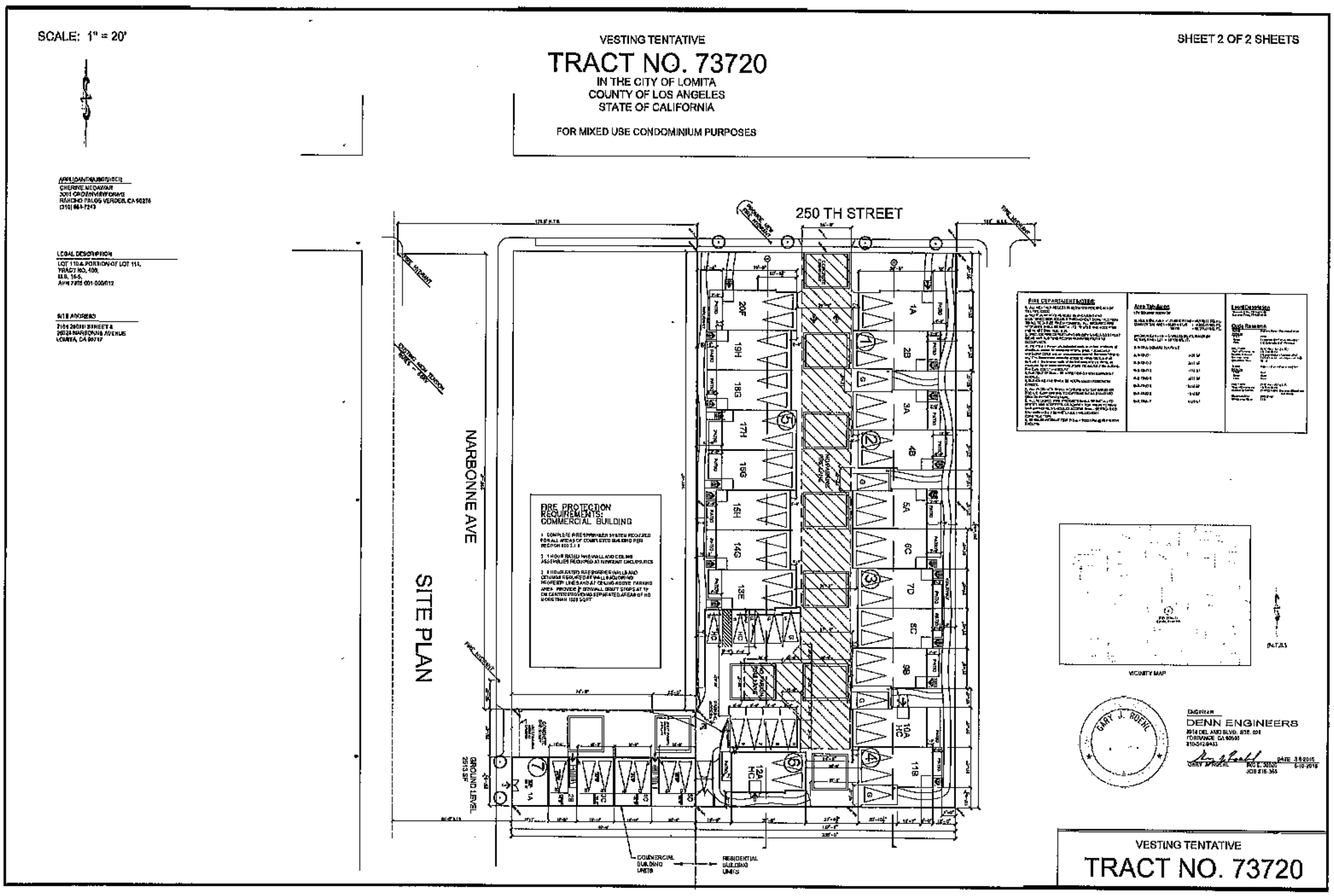
GERALD W. COMPTON AIA

Job No. 88715110 | Scale: NO SCALE

1300 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 379-8222

GWC ARCHITECTS

A0


SCALE: 1" = 20'
VESTING TENTATIVE
TRACT NO. 73720
IN THE CITY OF LOMITA
COUNTY OF LOS ANGELES
STATE OF CALIFORNIA
FOR MIXED USE CONDOMINIUM PURPOSES
SHEET 2 OF 2 SHEETS
LEGAL DESCRIPTION
250 TH STREET
NARBONNE AVE
SITE PLAN
FIRE PROTECTION REQUIREMENTS: COMMERCIAL BUILDING
GROUND LEVEL
COMMERCIAL BUILDING UNITS
RESIDENTIAL BUILDING UNITS
VICINITY MAP
GARY J. ROEHL
DENN ENGINEERS
VESTING TENTATIVE
TRACT NO. 73720

RESIDENTIAL CONDOMINIUMS - AREA TABULATION:

20 UNITS @ 1910 SF / UNIT = 38,200 SF X 21.8%= 8,324 SF

UNITS A-B-C-D - 12 UNITS(2A=HC)		1 UNIT	X 12
GROUND FLOOR			
GARAGE		414 SF	4968 SF
HABITABLE AREA		394 SF	4728 SF
PATIO AREA	VARIES	70 SF MIN	840 SF
SECOND FLOOR			
HABITABLE AREA		886 SF	8160 SF
DECK AREA		141 SF	1692 SF
THIRD FLOOR			
HABITABLE AREA		830 SF	9960 SF
DECK AREA		9 SF	108 SF
TOTAL HABITABLE		1910 SF	22920 SF
TOTAL DECK /PATIO AREA		211 SF	2532 SF
UNITS E-F-G-H - 8 UNITS		1 UNIT	X 8
GROUND FLOOR			
GARAGE		434 SF	3472 SF
HABITABLE AREA		394 SF	3152 SF
PATIO AREA	VARIES	70 SF MIN	560 SF
SECOND FLOOR			
HABITABLE AREA		886 SF	6488 SF
DECK AREA		141 SF	1128 SF
THIRD FLOOR			
HABITABLE AREA		830 SF	6640 SF
BALCONY AREA		9 SF	72 SF
TOTAL HABITABLE		1910 SF	15280 SF
TOTAL DECK /PATIO AREA		211 SF	1688 SF

PARKING REQUIRED - 2 CAR GARAGE PER UNIT +
.25 PER UNIT GUEST = 5 GUEST SPACES
GUESTS PROVIDED - 14 SHARED SPACES

COMMERCIAL LOFT CONDOMINIUM BUILDING
INDUSTRIAL / STORAGE SPACE
AREA TABULATION PER FLOOR:

TOTAL LOWER FLOOR = 2515 SF
PARKING AREA = 1447 SF
7 COVERED PKG - 14 UNCOVERED
GUEST SPACES - 14 SPACES PROVIDED (5 REQUIRED)

FRONT RETAIL SPACE = 507 SF 1 PER 300 (1.69 SPACES)

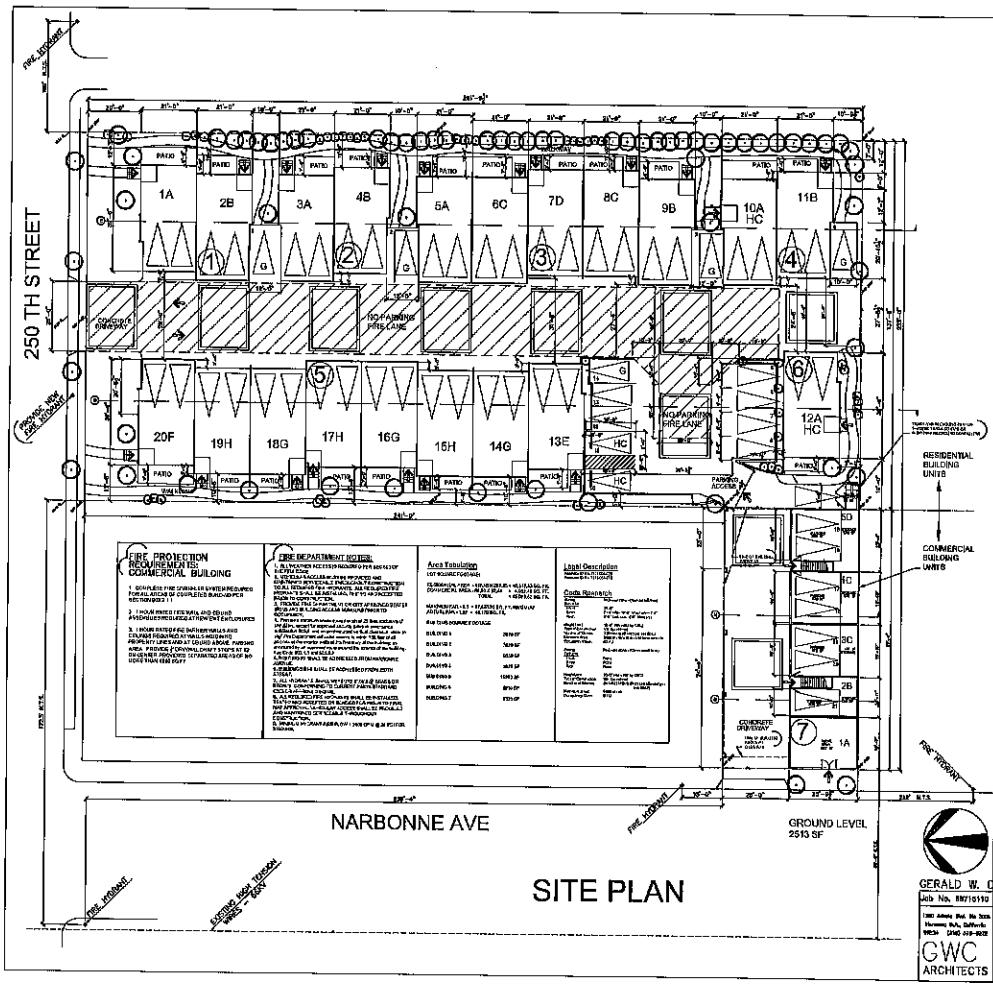
STORAGE AREA 1ST FLR = 661 SF 1 PER 400 (1.40 SPACES)

TOTAL 2ND FLR AREA = 4281 SF WAREHOUSE-1 PER 400 (10.70 SPACES)

TOT MEZZ FLR AREA = 1528 SF OFFICE-1PER 300 (5.09 SPACES)

TOTAL BUILDING AREA = 8324 SF
PARKING- 19 SPACES REQD - 21 SPACES PROVIDED
PERCENTAGE OF COMMERCIAL = 21.8 % OF HOUSING AREA

UNIT SUMMARY:	LOWER	2ND FLR	MEZZ	TOTALS
1A	507 SF	0 SF	0 SF	507 SF
2B	116 SF	1120 SF	382 SF	1596 SF
3C	136 SF	1021 SF	382 SF	1517 SF
4C	136 SF	1099 SF	382 SF	1638 SF
5D	174 SF	1041 SF	382 SF	1616 SF
HAB.,BLDG SF	1068 SF	4281 SF	1528 SF	6877 SF
PARKING AREA	1447 SF	0 SF	0 SF	1322 SF
TOTAL / FLOOR	2515 SF	4281 SF	1528 SF	
TOTAL BLDG AREA				8324 SF



SITE PLAN

ISSUANCE
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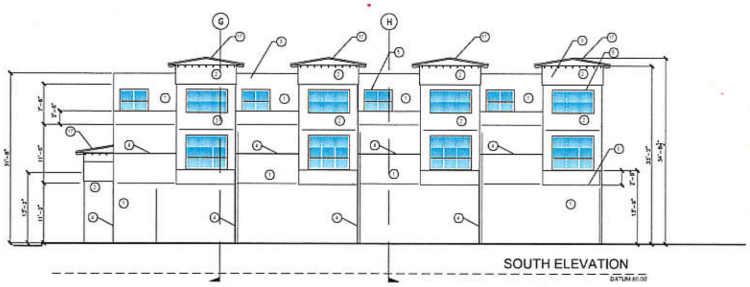
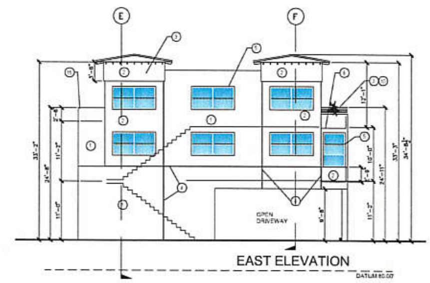
FIRE DPT REVISIONS
5-10-16

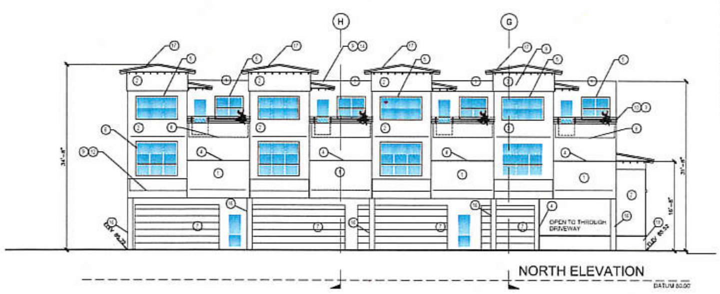
MULTI-USE

SITE PLAN / AREA TABULATION
250TH AND NARBONNE MULTI-USE
21041 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA
Job No. 8M16110 Scale: 1/16"=1'-0"
GWC ARCHITECTS
A1

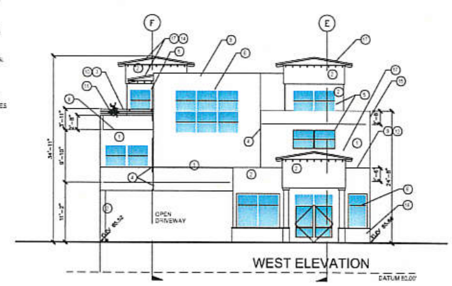






EXTERIOR FINISH SCHEDULE:

1. SMOOTH FINISH STUCCO - LIGHT BROWN)
2. SMOOTH FINISH STUCCO - MEDIUM BROWN)
3. GALV. STEEL GUARDRAIL - DARK BROWN TRIM
4. FRYE REGLET-ALUMINUM EXPANSION JOINT
5. ANODIZED ALUMINUM WINDOW SASH W/ BLUE TINTED GLASS - TYPICAL
6. STOREFRONT WINDOW WALL UNIT
7. SECTIONAL ROLL-UP GARAGE DOOR
8. DEXOTEX OR APPROVED EQUAL DECKIG
9. APPROVED TORCH DOWN ROOFING
10. HANDRAIL-36" OR GUARDRAIL-42"
11. PLANT SHELF
12. LOW ROOF AREA - TORCH DOWN TYPICAL
13. 3X3 DRAIN SPOUT
14. ENTRY ROOF OVERHANG
15. 30" PARAPET WALL AT PROP LINE
16. COLUMN AT GROUND LEVEL
17. RED TILE ROOF - S TILE W/ BIRDSTOP
18. STACKED STONE - LIMESTONE FACING
19. 6' FENCE AT PATIOS AND PROPERTY LINES



COMMERCIAL BUILDING ELEVATIONS

MULTI-USE

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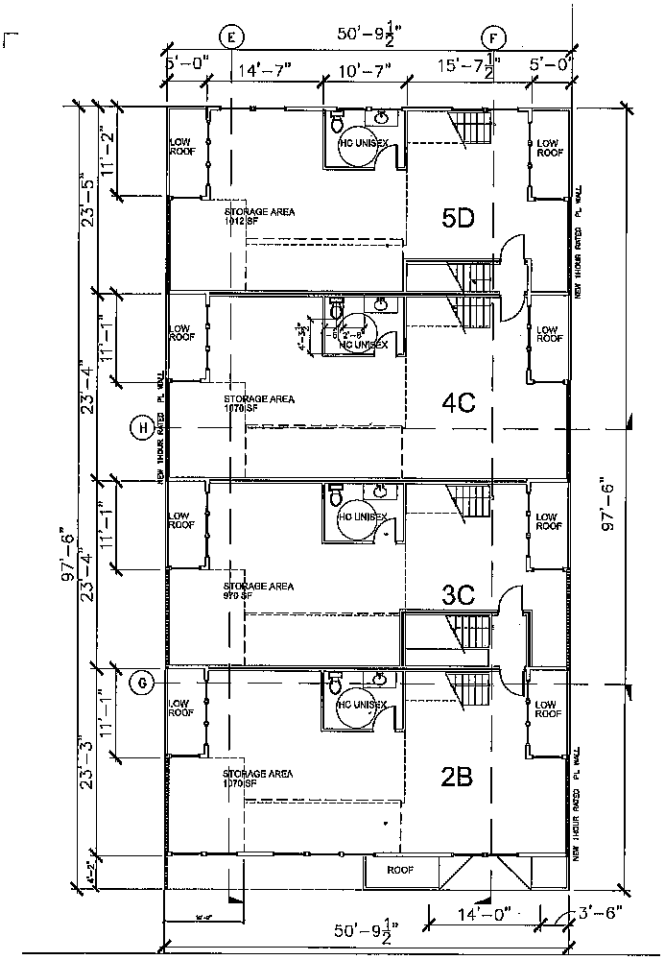
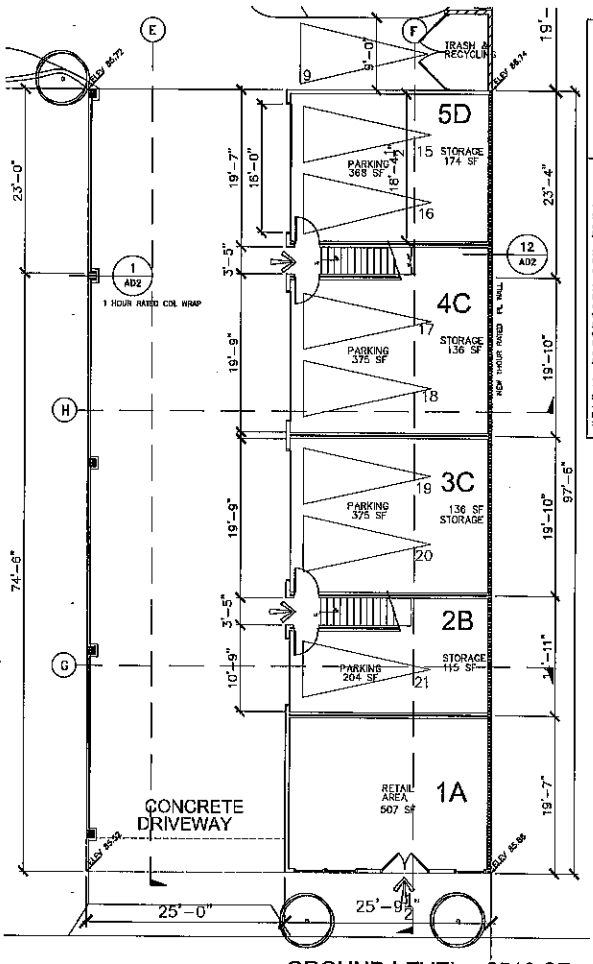
COMMERCIAL BUILDING ELEVATIONS
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA
Job No. 88715110
Scale: 1/8"=1'-0"
1200 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 376-8222
GWC
ARCHITECTS

A5.1



SECOND LEVEL 4281 SF



GROUND LEVEL 2513 SF

WALL LEGEND AND FIRE RATING SPECS.

ISSUANCE
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FIRE PROTECTION REQUIREMENTS:

1. COMPLETE FIRE SPRINKLER SYSTEM REQUIRED FOR ALL AREAS OF COMPLETED BUILDING PER SECTION 903.3.1.1
2. 1 HOUR RATED FIRE WALL AND CEILING ASSEMBLIES REQUITED AT NEW EXIT ENCLOSURES.
3. 1 HOUR RATED FIRE BARRIER WALLS AND CEILINGS REQUIRED AT WALLS ADJOINING PROPERTY LINES AND AT CEILING ABOVE PARKING AREA. PROVIDE 2' DROP WALL DRAFT STOPS AT 12' ON CENTER PROVIDING SEPARATED AREAS OF NO MORE THAN 1000 SQ FT.
4. ELEVATOR EQUIPMENT ROOM TO BE ENCLOSED WITH FIRE BARRIER WALLS PER SECTION 712 - PROVIDE AN INDEPENDENT AIR HANDLING SYSTEM PER SECTION 3006.2.

MULTI-USE

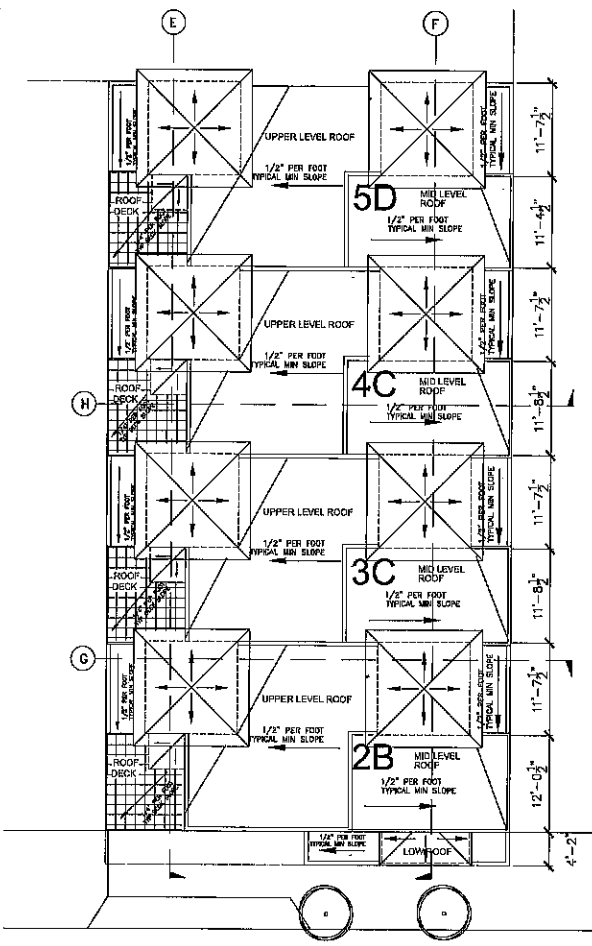
COMMERCIAL BLDG FLOOR PLANS

250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

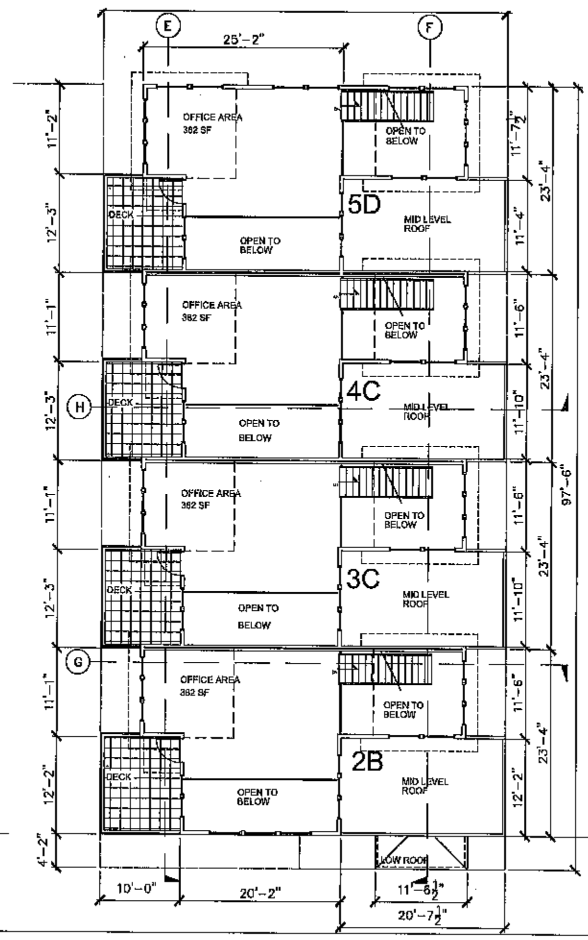
GERALD W. COMPTON AIA
Job No. 88710110 Scale: 3/16"=1'-0"

GWC ARCHITECTS

A4.1.1



- ROOF PLAN



MEZZANINE LEVEL 1528 SF

WALL LEGEND AND FIRE RATING SPECS.

NEW EMERGENCY EXIT SIGNS WITH BATTERY BACKUP
DOOR SYMBOL -SEE A7
WINDOW SYMBOL -SEE A7
RATED FIRE SPRINKLER PERIMETER W/ DRAFT STOPS

FIRE PROTECTION REQUIREMENTS:

1. COMPLETE FIRE SPRINKLER SYSTEM REQUIRED FOR ALL AREAS OF COMPLETED BUILDING PER SECTION 903.3.1.1

2. 1 HOUR RATED FIRE WALL AND CEILING ASSEMBLIES REQUIRED AT NEW EXIT ENCLOSURES.

3. 1 HOUR RATED FIRE BARRIER WALLS AND CEILINGS REQUIRED AT WALLS ADJOINING PROPERTY LINES AND AT CEILING ABOVE PARKING AREA. PROVIDE ½" DRYWALL DRAFT STOPS AT 12' ON CENTER PROVIDING SEPARATED AREAS OF NO MORE THAN 1000 SQ FT.

4. ELEVATOR EQUIPMENT ROOM TO BE ENCLOSED WITH FIRE BARRIER WALLS PER SECTION 712 - PROVIDE AN INDEPENDENT AIR HANDLING SYSTEM PER SECTION 3006.2.

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MULTI-USE

COMMERCIAL BLDG FLOOR / ROOF PLANS

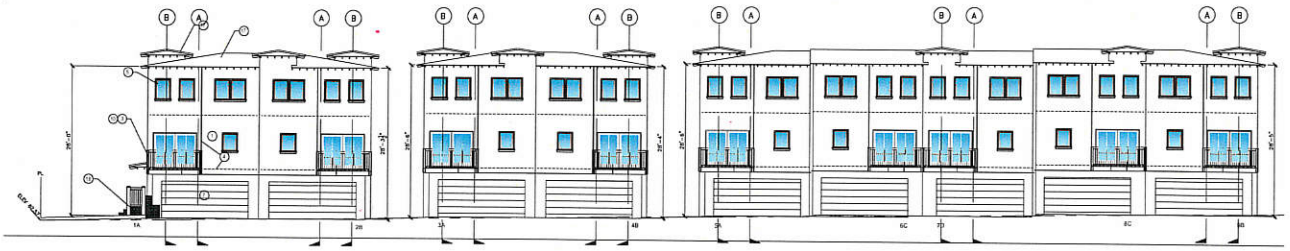
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA

Job No. 80715110 | Scale: 3/16"=1'-0"

GWC ARCHITECTS

A4.1.2



WEST ELEVATION
BUILDING 1 - UNITS 1-2

WEST ELEVATION
BUILDING 2 - UNITS 3-4

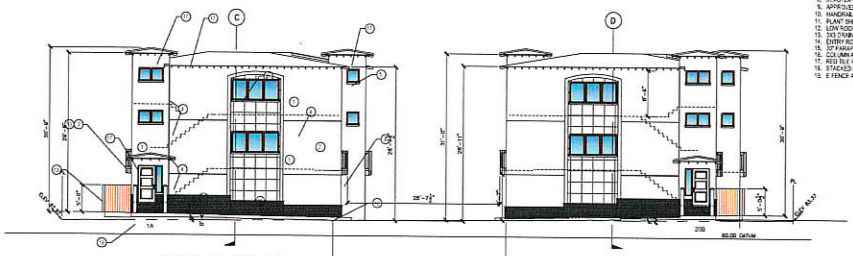
WEST ELEVATION
BUILDING 3 - UNITS 5-9

EAST ELEVATION
BUILDING 3 - UNITS 5-9

EAST ELEVATION
BUILDING 2 - UNITS 3-4

EAST ELEVATION
BUILDING 1 - UNITS 1-2

EAST ELEVATION
BUILDING 4 - UNITS 10-11



NORTH ELEVATION
BUILDING 1 - UNIT 1

NORTH ELEVATION
BUILDING 5 - UNIT 20

EXTERIOR FINISH SCHEDULE

1. SMOOTH FINISH STUCCO - LIGHT BROWN
2. SMOOTH FINISH STUCCO - MEDIUM BROWN
3. GALV. STEEL DIAMOND - DARK BROWN TRIM
4. FRYE REGLET -ALUMINUM EXPANSION JOINT
5. ANODIZED ALUMINUM WINDOW SASH W/ BLUE TINTED GLASS - TYPICAL
6. STONE FRONT WINDOW WALL UNIT
7. SECTIONAL ROLL-UP GARAGE DOOR
8. SKYLITES OR APPROVED EQUAL SKYLIGHTS
9. APPROVED TORCH DOWN ROOFING
10. HANDRAILS W/ DIAMOND ALLY
11. PLANT SHELF
12. LOW ROOF AREA - TORCH DOWN TYPICAL
13. 3X3 DRAIN SPOUT
14. ENTRY ROOF OVER HANG
15. 32" PARAPET WALL AT FRONT LINE
16. COLUMN AT GROUND LEVEL
17. RED TILE ROOF - S TILE W/ BIRDSTOP
18. STACKED STONE - LIMESTONE FACING
19. 6' FENCE AT PATIOS AND PROPERTY LINES

RESIDENTAIL BUILIDING ELEVATONS

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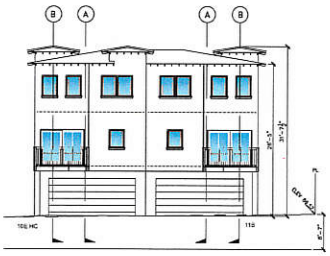
MULTI-USE

CONDOMINIUM ELEVATONS
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

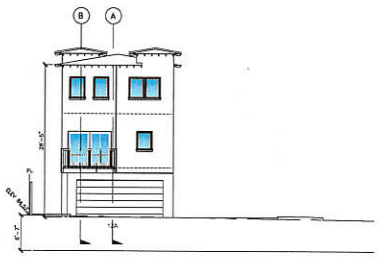
GERALD W. COMPTON AIA
Job No. 88715110 Scale: 1/8"=1'-0"
1300 Artesia Blvd. Ste 202A
Hermosa Bch., California
90254 (310) 379-4222
GWC ARCHITECTS

A5.2.1

EAST ELEVATION
BUILDING 5 - UNITS 13-20



WEST ELEVATION
BUILDING 4 - UNITS 10-11



EAST ELEVATION
BUILDING 6 - UNIT 12

WEST ELEVATION
BUILDING 6 - UNIT 12

RESIDENTAIL BUILIDING ELEVATONS

WEST ELEVATION
BUILDING 5 - UNITS 13-20

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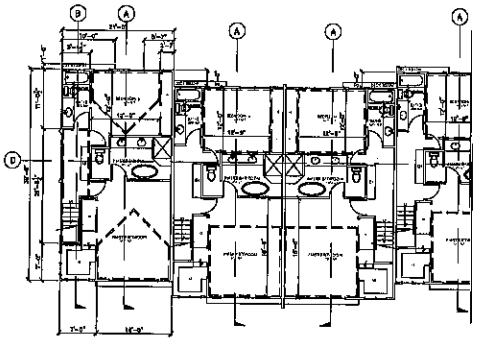
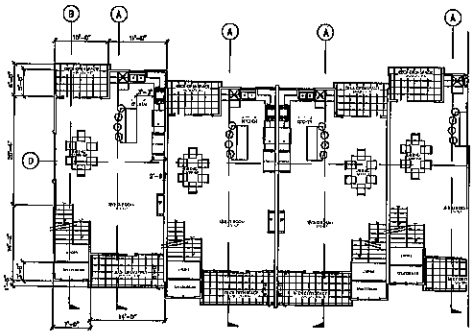
MULTI-USE

RESIDENTAIL BUILDING ELEVATONS
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

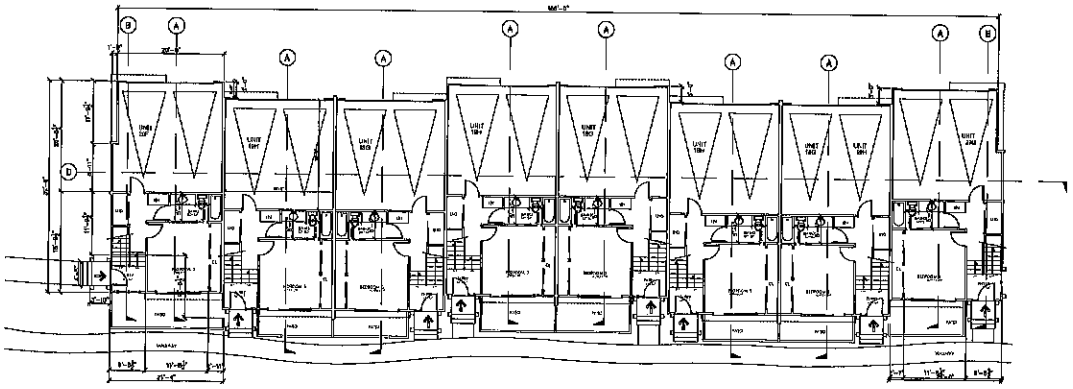
GERALD W. COMPTON AIA
Job No. 88715110 Scale: 1/8"=1'-0"
GWC ARCHITECTS
A5.2.2



THIRD LEVEL FLOOR PLANS



SECOND LEVEL FLOOR PLANS



GROUND LEVEL FLOOR PLANS

BUILDING #5
TYPICAL UNIT FLOOR PLANS – F, H & PARTIAL G UNITS
(E & G UNITS MIRROR IMAGES)–NON ELEVATOR UNITS

ISSUANCE
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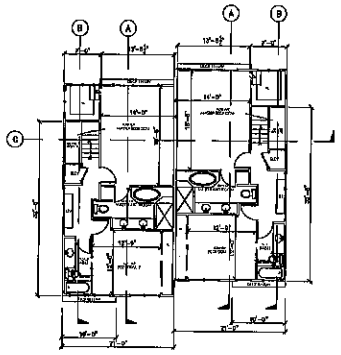
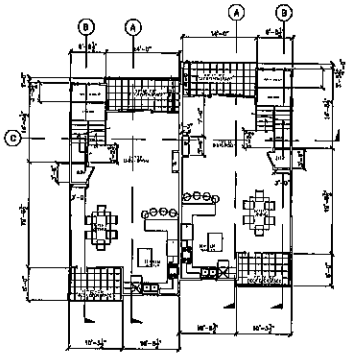
MULTI-USE

CONDOMINIUM UNIT PLANS
250TH AND NARBONNE MULTI-USE
21344 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

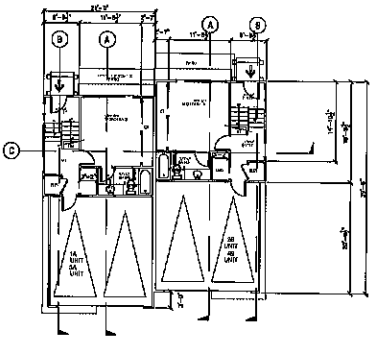
GERALD W. COMPTON AIA
Job No. 66710110 Scale: 1/8"=1'-0"
GWC ARCHITECTS
A4.2F



THIRD LEVEL FLOOR PLANS

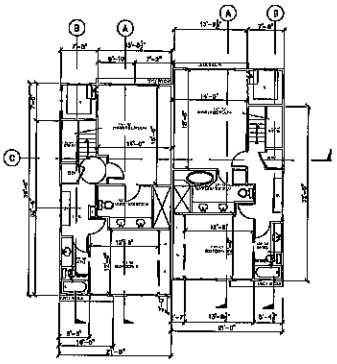


SECOND LEVEL FLOOR PLANS

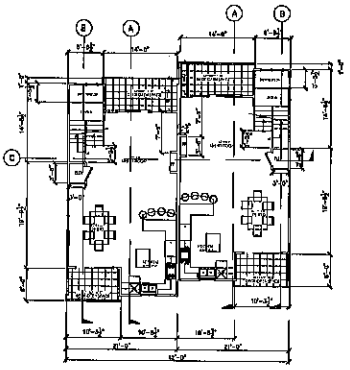


GROUND LEVEL FLOOR PLANS

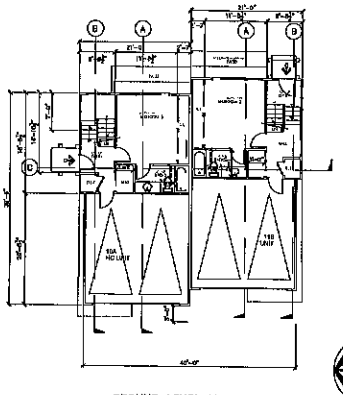
BUILDING #2 (#1 MIRROR IMAGE)
UNITS A AND B FLOOR PLANS



THIRD LEVEL FLOOR PLANS



SECOND LEVEL FLOOR PLANS



GROUND LEVEL FLOOR PLANS

BUILDING #4
UNIT 10E HANDICAPPED ACCESS FLOOR PLAN
UNITS 11B ELEVATOR FLOOR PLAN

ISSUANCE
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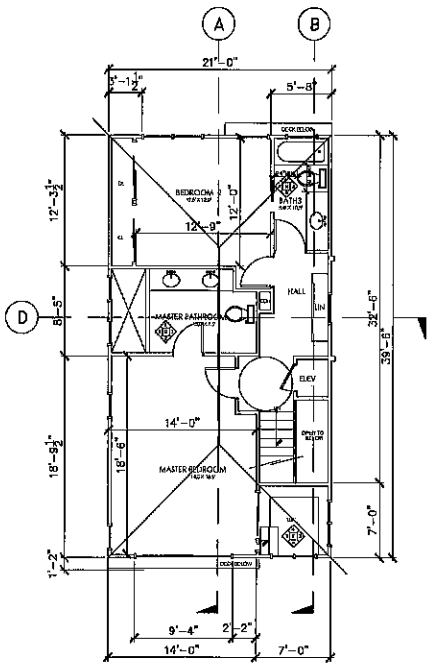
MULTI-USE

CONDOMINIUM UNIT PLANS
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

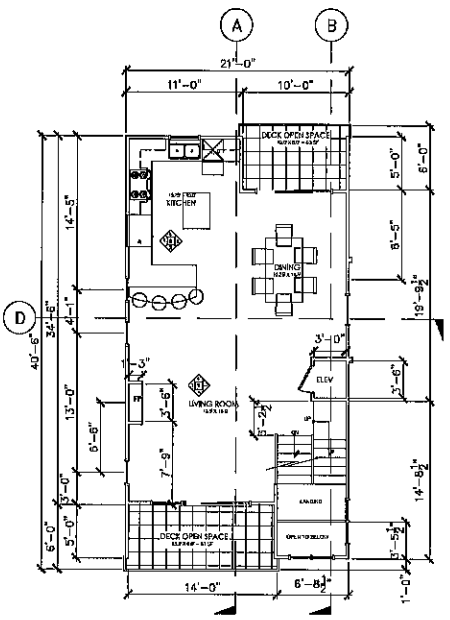
GERALD W. COMPTON AIA
Job No. 85715110 Scale: 1/8"=1'-0"

GWC ARCHITECTS

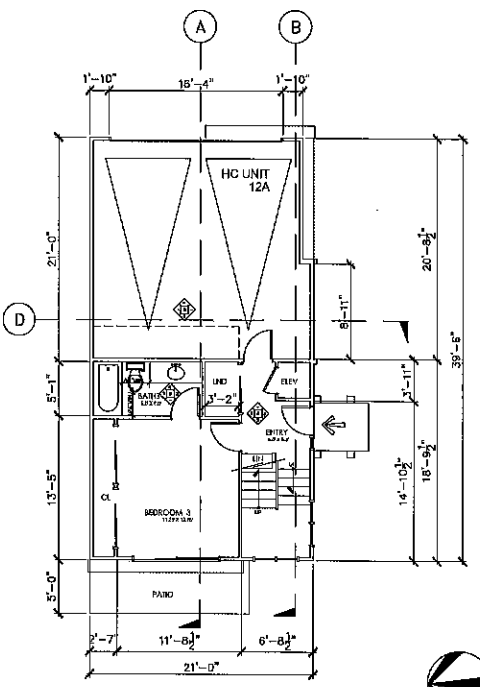
A4.2B



THIRD LEVEL FLOOR PLANS



SECOND LEVEL FLOOR PLANS



GROUND LEVEL FLOOR PLAN

BUILDING #6
UNIT 12A – HC
HANDICAPPED ACCESS FLOOR PLAN

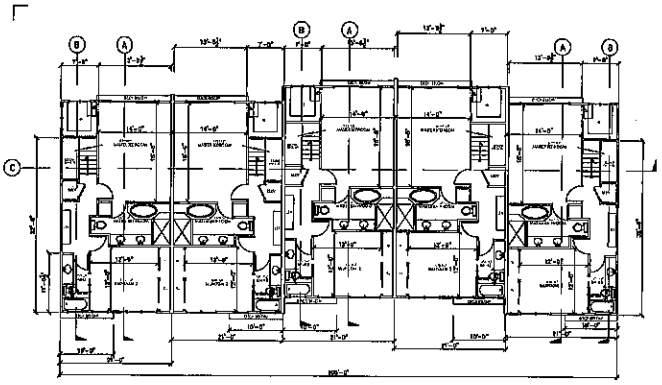
ISSUANCE
PLANNING REVIEW
7-30-18
2-15-19
FIRE DPT. REVIEW
4-28-19

REVISION
FIRE DPT. REVISIONS
5-15-19

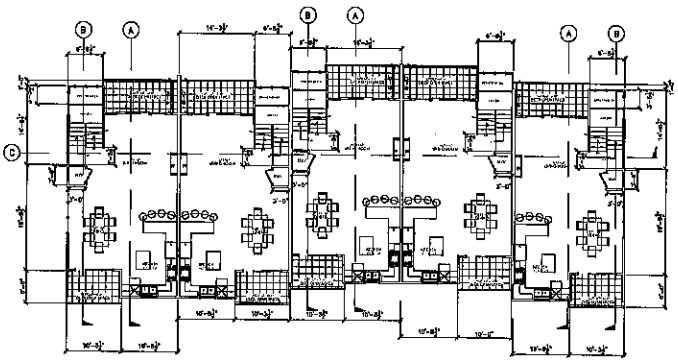
MULTI-USE

CONDOMINIUM UNIT PLANS
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

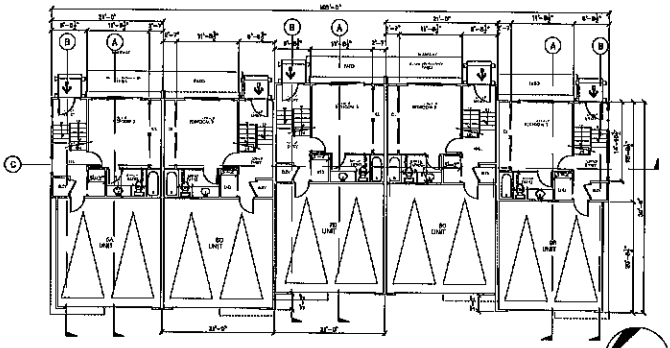
GERALD W. COMPTON AIA
Job No. 09715119 | Scale: 1/4"=1'-0"
GWC ARCHITECTS
A4.2A HC



THIRD LEVEL FLOOR PLANS



SECOND LEVEL FLOOR PLANS



GROUND LEVEL FLOOR PLANS

BUILDING #3
TYPICAL UNIT FLOOR PLANS – A,B,C&D UNITS
ELEVATOR UNITS

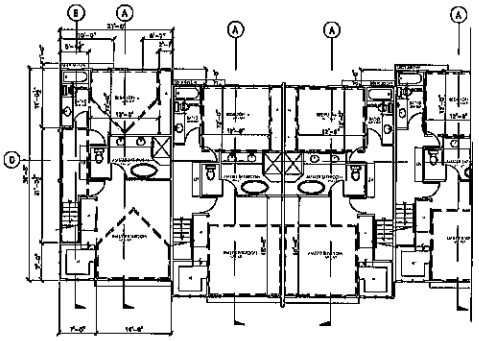
ISSUANCE
PLANNING REVIEW
1st - 8-8-18
2nd - 12-12-18
FIRE DEPT REVIEW
4-26-19

REVISION
FIRE DEPT REVISIONS
5-15-19

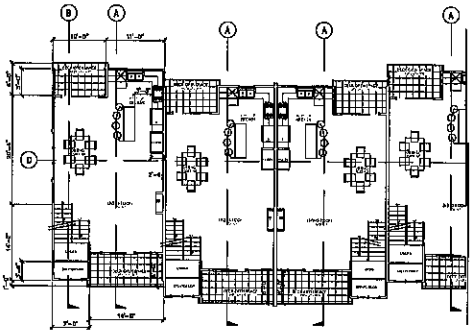
CONDOMINIUM UNIT PLANS
250TH AND NARBONNE MULTI-USE
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

MULTI-USE

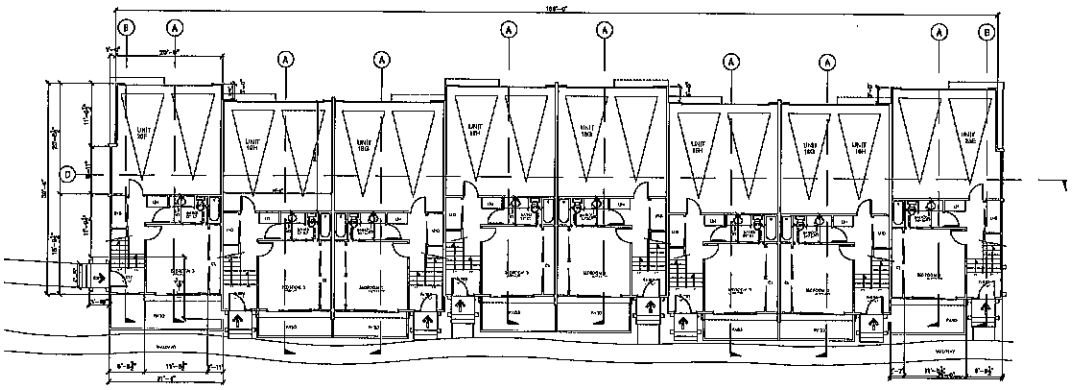
GERALD W. COMPTON AIA
Job No. 837151110 Scale: 1/8"=1'-0"
GWC ARCHITECTS
A4.2D



THIRD LEVEL FLOOR PLANS



SECOND LEVEL FLOOR PLANS



GROUND LEVEL FLOOR PLANS

BUILDING #5
TYPICAL UNIT FLOOR PLANS – F, H & PARTIAL G UNITS
(E & G UNITS MIRROR IMAGES)–NON ELEVATOR UNITS

ISSUANCE
PLANNING REVIEW
2-16-16
3-16-16
FIRE DEPT REVIEW
4-28-16

REVISION
FIRE DEPT REVISIONS
5-10-16

MULTI-USE

CONDOMINIUM UNIT PLANS
250TH AND NARBONNE MULTI-USE
21541 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA
Job No. 88018110 | Scale: 1/8"=1'-0"
GWC ARCHITECTS
A4.2F

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission November 9, 2015

FROM: Alicia Velasco, Principal Planner

SUBJECT: Pre-Review 2015-02
25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone

PROJECT DESCRIPTION
The applicant is requesting a review of the site plan and architectural design for a proposed mixed-use project consisting of 8,209 square feet of commercial space, 21 townhouse units, and 59 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. This review is for informational purposes only. Filed by Cherine Medawar, 3001 Crownview Dr., Rancho Palos Verdes, CA 90275.

RECOMMENDATION
Staff recommends that the Planning Commission review the proposed project and provide the applicant with direction in regards to site development and architectural style should the Commission deem it necessary.

BACKGROUND
Existing Conditions

The subject property consists of two parcels: 25024-6 Narbonne Ave., and 2154 250th St. The smaller parcel fronts onto Narbonne Ave., consists of 4,952 square feet and contains two residential units built in 1920 and 1924. The frontage along Narbonne Ave. is only 50 feet making this a very narrow commercial lot. The parcel fronting on 250th St. is 40,116 square feet and contains one single family residential unit and a nonconforming storage yard to the rear. There are no permits for this use. The total lot area is 45,068 square feet.

Adjacent Zoning and Land Uses

North	C-G (Commercial General) Commercial – Auto Repair
South	C-G (Commercial General) Commercial – Office Building/Contractor's Use
West	C-G (Commercial General) Non-Conforming Residential
East	R-1 (Low Density Residential) Single Family Residential

ANALYSIS

General Plan

The underlying general plan designation for the subject site is mixed-use. The mixed-use land use designation allows up to 22 units per acre and a floor area ratio of 2:1.

Zoning

The underlying zoning designation for the subject site is C-G (Commercial General). The property is also part of the mixed-use overlay zone that was adopted by the City Council in October of 2006. The overlay zoning is consistent with the proposal.

The project has been reviewed with the applicable city code requirements as follows:

Development Standard	**Project**	**Allowed/Required**	**Compliance**
Density	21 units per acre	22 units per acre	Yes
Minimum Lot Size	0.49 acres (21,440 sq. ft.)	10,000 sq. ft.	Yes
Minimum Lot Width	192 feet	100 feet	Yes
Minimum Lot Frontage	192 feet	50 feet	Yes
Building Height	35 feet	35 feet	Yes
Minimum % of Non-Residential Uses	20.85%	30%	Yes*
Floor Area Ratio	84%	100%	Yes
Yards: Front - Side - Rear -	 0 feet 0 feet, 10 feet 10 feet	 None None 10 feet	 Yes Yes Yes
Open Space	281 sq. ft. per unit	Min 200 sq. ft. per unit	Yes
Walls	6 ft. perimeter wall	6 ft. perimeter wall required	Yes
Off-Street Parking	36 spaces	27 spaces	Yes**

* Commercial requirement can be modified through the CUP process

** Applicant is proposing to share one residential guest space

Review of Site Plan

The site would be accessed from a 25-foot wide driveway from Narbonne Avenue. A two-story commercial building is proposed at a height of 34'6" feet along Narbonne Ave. The project is providing 12 parking spaces for the commercial component of the property. Directly east of the commercial parking area is the residential portion of the site, which consists of eleven three-story townhouse style units each with a two-car garage. There are two designated residential guest parking spaces and the entire residential portion of the project is separated from the commercial portion by an electronic gate. The project is required to provide three residential guest spaces and the applicant is requesting to permit one commercial space to be used as a guest space in the evening. This can be approved as part of the CUP process and staff would support this reduction.

The majority of the proposed townhomes range from 1,505 to 1,582 square feet, and consist of three bedrooms. One townhome is 1,282 square feet with two bedrooms. All are spread over three stories with the garage on the first floor, the living area on the second, and bedrooms on the third. Each unit has a balcony off the second floor living area and a small front yard at the entry.

The commercial component of the project consists of 3,500 square feet over two floors. The proposed plans are currently showing two tenant spaces with each having a portion on the first and second floor. The design on the tenant spaces could easily be modified in the future to accommodate future tenant needs. The applicant is proposing a 9.85% reduction in the amount of required commercial space. Staff can support this reduction since there is limited frontage on Narbonne Ave. The project site is deep and narrow and there is little demand for commercial uses which do not front onto a main thoroughfare. This project is proposing an increase in commercial square footage from the previously approved project by 600 square feet. This has been accomplished by reducing the size of the residential units by 200 square feet each and slightly narrowing the driveway. The applicant is proposing high quality materials and a very pleasing design for both the commercial and residential components of the site. Due to the design of the project, combined with the narrow Narbonne Ave. frontage, staff believes a 9.85% reduction in commercial space is a good compromise to see a successful project.

Building Elevations

The proposed elevations are contemporary in style with stucco facades, metal trim and awnings, and fiber glass garage doors. Although the front façade of the commercial structure meets the City's design requirements; staff does believe that the applicant could propose more window glazing and/or more façade articulation. Further, the applicant could propose a larger patio area for Unit A and still have it counted towards the commercial square footage. This would permit a coffee shop type use with outdoor seating.

Public Notice

Although no action will be taken staff sent notices of this meeting to all of the owners of properties within 300 feet of the subject property. Staff also posted notices at Lomita City Hall, Lomita Library, and Lomita Park. As of the date this staff report was prepared, staff has not received any correspondence either for or against the proposed project

Recommended by:

Gary Y. Sugano
Assistant City Manager

Prepared by:

Alicia Velasco
Principal Planner

Exhibits:

a. Vicinity Map
b. Zoning Map
c. General Plan Map
d. Aerial Photograph
e. Site Plans/Floor Plans/Elevations

\\lomchsrv2\shared\community development\planning\alicia\2014\mixed-use 25114 narbonne schiappa\pc staff report for pre review.doc

Commissioner Graf moved to re-order the meeting and move Item #6 after Item #7. Commissioner Roehm seconded the motion which carried by the following vote:

AYES:	COMMISSIONERS:	Graf, Roehm, Dever, Popelka, Hoy
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Stokes
RECUSE:	COMMISSIONERS:	Cammarata

Commissioner Cammarata recused himself from Item #7.

7. **PRE-REVIEW 2015-02,** the applicant is requesting a review of the site plan and architectural design for a proposed mixed-use project consisting of 8,209 square feet of commercial condominium space, 21 townhouse units, and 59 parking spaces located at 2154 250th St. and 25024 Narbonne Ave. in the C-G (Commercial General) Zone. This is for informational purposes only. Filed by Cherine Medawar, 3001 Crownview Drive, Rancho Palos Verdes, CA 90275.

Principal Planner Velasco presented the report. This is a preliminary review of the site plan and architectural design for the proposed mixed use project proposing 8,200 sq. ft. of commercial space and 21 three-story condominium units. This project is before the Commission as an informational item to get feedback from the public and from the Commission. If the project moves forward, it would require a Conditional Use Permit and a Map approval which will be another public hearing at a later date. The subject lot is 45,068 sq. ft. and zoned Commercial General with a Mixed Use Overlay. Currently, the property has minimal frontage on Narbonne Avenue and "L" shaped up to 250th Street. The Narbonne Avenue location of the property has a non-conforming duplex and the 250th Street portion has a non-conforming triplex followed by the storage yard which has no permits at all. Staff reviewed the proposed project according to the development standards in the Code. The project does meet all the criteria except that the applicant is seeking a reduction in the commercial square footage from approximately 30% to 20%. The applicant is also requesting the opportunity for shared parking which will also be discussed tonight.

The proposed Site Plan Review (renderings and architectural designs were provided):

Commercial Portion – currently 5 tenant spaces. The first tenant space which fronts right onto Narbonne Avenue will be a typical office retail space with doors facing Narbonne Avenue. The spaces behind will have a 2-car secured parking garage area. The second and third floor will be flexible storage, office, and mezzanine space. This is something that has not previously been proposed in the City.

Residential Portion – 21 units with access from 250th Street and a Woodward Avenue orientation with an interior driveway. The two-car garages are at the bottom, bedroom and bathroom at ground level with a patio; the second floor has the kitchen and the living area and private open space; the third has two additional bedrooms and bathrooms.

Staff reviewed the Site Plan; there will be access from adequate driveways from both 250th Street and Narbonne Avenue. The commercial portion is proposing five tenant spaces which is 8,200 sq. ft. with private 2-car garages on the ground level. They would be requesting five shared spaces between the commercial and residential portion of this site. The project will require a traffic study proposal to move forward. The traffic engineer may also come up with ideas to mitigate any traffic impact such as restricting parking hours. Applicant is also seeking a little less than 10% reduction commercial space. Staff can see supporting that reduction due to the limited frontage on Narbonne Avenue. They only have 25 feet of width that may actually be useable and visible from the street. Without visibility, there can be an issue with viability for commercial space. For the residential portion of the site, they are proposing 21 three-story townhomes which is the maximum that can be proposed due to the size of the site. The townhomes are approximately 1,900 sq. ft. and proposing that two units be handicap accessible with elevators in the units.

As far as architectural review, staff does feel that the applicant was fairly creative with the commercial space to be able to get 8,200 sq. ft. of commercial space with only 25 feet of frontage on Narbonne Avenue. As far as the residential portion, we are looking at ways to mitigate the impact of the residential units along the Woodward Avenue properties. Something that has already been discussed with the applicant and architect is to possibly reverse the third floor floorplan to possibly reduce glass frontage and not have the balcony on that side.

Staff is recommending that the Planning Commission provide direction to the applicant regarding the proposed design of the project. This is a public hearing but there will be no action taken and then the project will come back after it goes through the Map review process.

Commissioner Popelka stated that he knows the applicant and does talk to him regarding business but has not discussed this project. Commissioner Popelka asked what type of business would rent the commercial space that is only 350 sq. ft. Ms. Velasco stated that they could be flexible but that there is a demand for small retail locations and that the units can also be combined. Brief discussion ensued regarding other properties in the City that may be converted to live/work units.

Commercial Graf asked staff whether the project was for 2 separate parcels. Ms. Velasco stated that it is one owner with two separate parcels. Discussion followed regarding the issue of two parcels, the uses for commercial spaces and the mixed use overlay.

Chair Hoy opened the public hearing.

Cherine Medawar, applicant, and Gerry Compton, architect, addressed some of the Commissioners questions. Mr. Medawar stated that the site is two parcels and will have two different associations; one for the townhouses and a separate one for the commercial portion. The commercial part will be for sale; but if it doesn't sell, then it would be rented. As far as the height limitation, Mr. Medawar stated that the code is 35 feet. He added that for 45,000 sq. ft. they are allowed to have 22 townhouses and the design leaves quite a bit of space between the townhouses to allow for light and breeze. Commissioner Popelka stated that he is not in favor of the shared parking spots since parking is such a problem in the City. He added that he prefers less density and lower height.

Ms. Velasco stated that for shared spaces to be allowed in the mixed use projects, a traffic study would be completed and then reviewed by the Commission, and the Commission would then make the determination. Mr. Compton stated that the five additional parking spaces could be used for condominium guests in the evening. Mr. Compton added that there may be more than two condominiums with elevators.

Commissioner Dever stated that the commercial portion of the mixed use is very small in comparison to the size and height of the residential portion. Mr. Medawar stated that they are limited to space for commercial frontage on Narbonne Avenue. Businesses on 250th Street would not have enough exposure and it is a very narrow street. Commissioner Graf stated that he feels that the applicant should meet the requirement of 30% commercial space and eliminate some of the condominiums behind the commercial portion. Further discussion ensued regarding the regulations and guidelines for mixed use projects.

Dennis Jeremica, Lomita resident on Woodward Avenue, stated that he has a background in traffic and feels that the size of this development will cause a major traffic and parking issue. He is opposed to the three story units due to the height and added traffic.

Jim Browning, owns units on 250th Street, stated that the traffic congestion will increase. As it is now, the intersection at Narbonne and 250th Street is very busy. He is opposed to the three story units.

George Kivett, Lomita resident, stated that the original General Plan Advisory Committee made the recommendations for the mixed use overlay. The goal was to create incentives to revitalize the commercial corridor on Narbonne in the downtown area. On an acre of land, 25 units are allowed for the residential component. With new development, the parking must be brought up to the current standard. Mr. Kivett stated that there is a high demand for small commercial spaces.

Barbara Paulson, resident on Woodward Avenue, stated that this project would be directly in her back yard and is concerned about the privacy issue. She added that she has a swimming pool and is concerned with construction debris falling in the pool. She stated that there is a lot of traffic on Woodward and speed is an issue.
Bob Gramko, resident on Woodward Avenue, stated he is a fairly new Lomita resident and would not have purchased his home if he had known about this project. He is opposed to the project because of parking issues, air flow and loss of sunset view.

Mr. Medawar stated that there will be privacy between the properties and trees will be planted. Mr. Carpenter added that the setbacks are larger than the minimum requirement which allows space to grow trees for privacy.

Commissioner Dever added that, although all guidelines have been followed, she is opposed to the height and size of the project.

Ms. Velasco addressed the issue regarding adding more commercial to the east of Narbonne and less residential by stating that this would not be viable commercial because it is too far back. She added some options for consideration. Discussion ensued regarding size of residential portion, commercial spaces and parking.

Chair Hoy closed the public hearing.

6. **CONDITIONAL USE PERMIT NO. 293; VESTING TENTATIVE TRACT MAP 073112; NEGATIVE DECLARATION 2015-01,** the proposed project involves the construction of 11 new three-story townhouse units and 3,500 square feet of retail/office space. There will be 22 enclosed private garage spaces, two residential guest spaces, and 12 commercial parking spaces. The project is entirely on one half-acre parcel (21,785) located at 25114 Narbonne Ave., in the C-G (Commercial General) Zone. The Commission will be making a recommendation to the City Council on the proposed project and the negative declaration. Filed by Ennio Schiappa, Inc. 23775 Madison Street, Torrance, CA 90505.

Principal Planner Velasco recommended that Item #6 be continued off-calendar.

Commissioner Graf moved to approve staff's recommendation to continue item off-calendar. Commissioner Roehm seconded the motion which carried by the following vote:

AYES:	COMMISSIONERS:	Graf, Roehm, Dever, Popelka, Hoy
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Stokes
RECUSE:	COMMISSIONERS:	Cammarata

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission December 14, 2015

FROM: Alicia Velasco, Principal Planner

SUBJECT: Pre-Review 2015-02
25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone

PROJECT DESCRIPTION
The applicant is requesting a review of the site plan and architectural design for a proposed mixed-use project consisting of 8,324 square feet of commercial space, 20 townhouse units, and 61 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. This review is for informational purposes only. Filed by Cherine Medawar, 3001 Crownview Dr., Rancho Palos Verdes, CA 90275.

RECOMMENDATION
Staff recommends that the Planning Commission review the proposed project and provide the applicant with direction in regards to site development and architectural style should the Commission deem it necessary.

BACKGROUND
This project came before the Commission at its last hearing (report dated 11/9/15 is attached as Exhibit "E") where the Commission brought up concerns regarding density, the height in relation to the Woodward Ave. properties, loss of privacy, and commercial parking requirements. The applicant has addressed these concerns by the following:

- Eliminated one unit from the project (to 20 units)
- Increased the commercial parking by four spaces
- Increased the square footage of the retail unit to 507 square feet thereby increasing the overall commercial square footage from 8,209 to 8,324 square feet
- Shifted the building along the Woodward Ave. properties west two feet
- Eliminated the balconies on the third floor of the units

ANALYSIS

Height
At the previous public hearing there were many questions regarding the permitted height of a project within this zone. The permitted maximum height is 35 feet. The applicant is proposing a

height of 34' 11 inches for the commercial structure and 30' 6" for the residential structures. Both of these heights are permitted by code.

Parking

There are two different parking requirements which apply to the project: residential and commercial. The residential parking requirements are two garage spaces and ¼ of a guest space per unit. The project meets these requirements. The commercial requirement varies based on the use of the building but for the proposed design 19 spaces are required. The project now provides the required 19 spaces in addition to the residential guest parking spaces. There are a few spaces which staff does not believe are effective due to their location and would like to see them removed. After the project receives preliminary approval, a traffic engineer will prepare a traffic/parking study and analyze the actual spaces needed and traffic flow on-site.

Site Plan, Floor Plan and Elevations

The architect has shifted the east building (along the Woodward Ave. properties) westward two feet to increase the setback between the properties. With this shift the closest the units come to the east property line is 13 feet, with some up to 18 feet from the property line. Further, the applicant has provided a dense row of trees to help buffer the units from the residences to the east.

There have been only minor changes to the floor plan and elevations. At staff's request, the architect shifted the orientation of the two units fronting on 250th Street so their front door opens to the street. There has also been more architectural detail added to the front façade. The floor plans remain the same but the balconies on the third floor have been reduced to "*Juliet balconies*". These balconies have doors which open but no landings to walk out on. This will allow for the breeze and look of a balcony while decreasing the impact on privacy to the neighbors.

With the proposed changes, staff believes that the project strikes a good balance between the commercial/mixed-use zoning and the single family residential homes to the east. Further, any traffic related impacts will be assessed by a professional traffic engineer at a later date.

Public Notice

Although no action will be taken staff sent notices of this meeting to all of the owners of properties within 300 feet of the subject property. Staff also posted notices at Lomita City Hall, Lomita Library, and Lomita Park. As of the date this staff report was prepared, staff has not received any correspondence either for or against the proposed project

Recommended by:

Gary Y. Sugano
Assistant City Manager

Prepared by:

Alicia Velasco
Principal Planner

Exhibits:

a. Vicinity Map
b. Zoning Map
c. General Plan Map
d. Aerial Photograph
e. Planning Commission Staff Report dated 11/09/15
f. Site Plans/Floor Plans/Elevations

\\lomchsrv2\shared\community development\planning\alicia\2015\pre-review 2015-02 cherine\pc staff report for pre review dec.doc

Yen (last name not given), 25123 Woodward Avenue, would like to see impact in the environment reports. Chair Hoy closed public hearing.

Commissioner Graf asked Ms. Velasco when this item was first brought to the commission. She stated back in November of 2014.

Chair Hoy asked when the last GPAC met was the commercial/residential ratio discussed, Ms. Planner Velasco stated that it was discussed. She also stated that it was a ratio not a minimum square footage so the applicant can manipulate the ratio to increase the Commercial square footage and reduce the residential.

Commissioner Graf moved to recommend City Council approval of Conditional Use Permit No. 293; Vesting Tentative Tract Map 073112; Negative Declaration 2015-01. Commissioner Stokes seconded the motion which carried by the following vote:

AYES:	COMMISSIONERS:	Graf, Stokes, Dever, Hoy
NOES:	COMMISSIONERS:	None
ABSENT:	COMMISSIONERS:	Popelka, Roehm
RECUSE:	COMMISSIONERS:	Cammarata

Commissioner Cammarata recused himself from Item #6

6. **PRE-REVIEW 2015-02,** the applicant is requesting a review of the site plan and architectural design for a proposed mixed-use project consisting of 8,324 square feet of commercial condominium space, 20 townhouse units, and 61 parking spaces located at 2154 250th St. and 25024 Narbonne Ave. in the C-G (Commercial General) Zone. This review is for informational purposes only. Filed by Cherine Medawar, 3001 Crownview Drive, Rancho Palos Verdes, CA 90275.

Principal Planner Velasco presented the report. This is a preliminary review of the site plan and architectural design for the proposed mixed use project which will require a Condition Use Permit and a map approval at a later date. The property size is a little over one-acre and is off of 250th Street and fronts on Narbonne Avenue which consist of a non-conforming triplex on 250th and a non-conforming duplex on Narbonne. This item came before the commission at last month's meeting the commission had comments regarding parking, density, set-backs and height. The previous submittal was proposing 8,200 sq. ft. of commercial space and 21 three-story condominium units. The applicant has revised the proposal and now has 8,324 square feet of commercial space and has reduce the number of residential units by one is now 20 units. Four additional parking spaces where added and the 3rd floor balconies were eliminated due to privacy issues. The building was shifted by 2 feet that fronts onto Woodward Ave and reduced the Second floor balconies by 3 feet. Staff reviewed the project to proposed development standards which has a height limit of 35 feet and the project is proposing 34 feet 8 ½ inches. Plans show a heavy row of trees will be planted along the wall of Woodward Ave for privacy. The project meets all parking requirements and exceeds guest parking by 2 spaces. A traffic study will determine what the true parking demand is but at this time all requirements have been met.

Staff is recommending that the Planning Commission provide direction to the applicant regarding the proposed project. This is a public hearing but there will be no action taken and then the project will come back after it goes through the Map review process.

Commissioner Graf asked staff whether the commercial portion had a study done regarding Fire Department access. Ms. Velasco directed the question to the applicant, Cherine Medawar. Discussion followed regarding the issue of fire access.

Cherine Medawar, applicant, stated that last meeting he heard the concerns of the neighbors and has addressed some of the concerns. The building was pulled back 2 feet, which is the maximum allowed due to turn-around requirements. Some of the townhouses are going to be 13 feet to 18 feet from the Woodward Ave block wall. He stated that he was committed to planting mature trees to address privacy issues and has replaced the 3rd story balconies with Juliet doors and has reduced the second-story balcony from 10 feet to 7 feet. The façade was changed and he has eliminated one unit to allow for more parking so commercial and residential will not be sharing the parking area. Mr. Medawar stated that the he was also a commercial developer which is really slow at this time he also feels like he addressed a lot of the issues and hopes that the neighbors are happy and the project will be approved.

Commissioner Graf thanked Mr. Medawar for addressing a lot of the concerns.

Chair Hoy opened the public hearing.

Bob Gramcko, Lomita resident on Woodward Avenue, stated that he would like to see less high density residential and more commercial use with the mixed-use projects that are being presented.

Tina Paige, Lomita resident on 250th Street, was concerned with air quality during construction and traffic congestion.

George Kivett, Lomita resident, stated that the subject area is actually zoned commercial with a mixed-use overlay and it could be a huge block building to the property line instead of what is being proposed. Also with new development, the parking must be brought up to the current standard. Mr. Kivett stated that he has seen the applicant's projects in the past and he feels that the property will be developed to the best possible use with a nice architectural design. He would like to see the project go forward.

Barbara Paulson, resident on Woodward Avenue, stated that this project would be directly in her back yard and is concerned about the privacy issue. She appreciates that the applicant has made some concessions; asked if a wall will run the length of her rear property. Ms. Velasco stated that it was a condition of the project that a six-foot wall would be put up.

Mr. Medawar stated that the dust will be controlled and that the height of the building has been dropped down by 4 feet. He also stated that everyone will be happy with the changes he has made and that he is very cooperative when it came to the block wall that will be built.

Commissioner Dever thanked the applicant for making changes.

Chair Hoy closed the public hearing.

Commisioner Dever stated that all the standards have been met.

Commisioner Graf commended the applicant all the changes that were made from last month pre-review. He verified the height of the residential part of project has been lowered to 30 feet 8 inches according to the applicant and Ms. Velsaco and the commercial is 34 feet.

Chair Hoy stated that he appreciated that the applicant mitigated some of the concerns that the residents had and that he empathizes with the residents as well.

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission June 13, 2016

FROM: Alicia Velasco, Principal Planner

SUBJECT: Conditional Use Permit No. 299 and Vesting Tentative Tract Map No. 73720
25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone

PROJECT DESCRIPTION

The applicant is requesting a Conditional Use Permit and a Tentative Tract Map for the development of a proposed mixed-use project consisting of 8,325 square feet of commercial space, 20 townhouse units, and 60 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275.

RECOMMENDATION

Staff recommends that the Planning Commission recommend that the City Council adopt a resolution approving Conditional Use Permit 299, Vesting Tentative Tract Map No. 73720 subject to the attached conditions, and confirm the categorical exemption.

BACKGROUND

Existing Conditions

The subject property consists of two parcels: 25024-6 Narbonne Ave., and 2154 250th St. The smaller parcel fronts onto Narbonne Ave., consists of 4,952 square feet and contains two residential units built in 1920 and 1924. The frontage along Narbonne Ave. is only 50 feet making this a very narrow commercial lot. The parcel fronting on 250th St. is 40,116 square feet and contains one single family residential unit and a nonconforming storage yard to the rear. There are no permits for this use. The total lot area is 45,068 square feet.

The project came before the Commission for its first conceptual review on November 9th, 2015. At that hearing the Commission brought up concerns regarding density, the height in relation to the Woodward Ave. properties, loss of privacy, and commercial parking requirements. The applicant returned to the Commission with modifications to the plans addressing these concerns on December 14, 2015. Specifically, the applicant:

- Eliminated one unit from the project (to 20 units)
- Increased the commercial parking by four spaces

- Increased the square footage of the retail unit to 507 square feet thereby increasing the overall commercial square footage from 8,209 to 8,324 square feet
- Shifted the building along the Woodward Ave. properties west two feet
- Eliminated the balconies on the third floor of the units

At that time the Commission members stated that they approved of the concept and the applicant proceeded to prepare plans and submit for tentative map review. The City has hired an outside consulting agency for map review. The firm (H.R. Green) reviewed the map for accuracy and provided conditions of approval (attached to the Resolution). Both the map and the conditional use permit are before the Commission with the map receiving final approval from the City Council. There have only been minimal changes to the project since the Commission reviewed it pertaining to circulation and access as required by the fire department. There have been no square footage or unit density changes.

Adjacent Zoning and Land Uses

North	C-G (Commercial General) Commercial – Auto Repair
South	C-G (Commercial General) Commercial – Office Building/Contractor's Use
West	C-G (Commercial General) Non-Conforming Residential
East	R-1 (Low Density Residential) Single Family Residential

ANALYSIS

General Plan

The underlying general plan designation for the subject site is mixed-use. The mixed-use land use designation allows up to 22 units per acre and a floor area ratio of 2:1.

Zoning

The underlying zoning designation for the subject site is C-G (Commercial General). The property is also part of the mixed-use overlay zone that was adopted by the City Council in October of 2006. The overlay zoning is consistent with the proposal.

The project has been reviewed with the applicable city code requirements as follows:

Development Standard	**Project**	**Allowed/Required**	**Compliance**
Density	20 units per acre	22 units per acre	Yes
Minimum Lot Size	45,068	10,000 sq. ft.	Yes
Minimum Lot Frontage	50'9" feet	50 feet	Yes
Building Height - Commercial - Residential	 34'11 feet 30'9"	 35 feet 35 feet	 Yes Yes
Minimum % of Non-Residential Uses	20.03%	30%	Yes*

Development Standard	Project	Allowed/Required	Compliance
Floor Area Ratio	107%	200%	Yes
Yards: Front - Side - Rear -	 0 feet 0 feet, 10 feet 10 feet	 None None <12.3 feet	 Yes Yes Yes
Open Space	Varies min 200 sq. ft.	Min 200 sq. ft. per unit	Yes
Walls	6 ft. perimeter wall	6 ft. perimeter wall required	Yes

* Commercial requirement can be modified through the CUP process

Review of Site Plan

The site would be accessed from a 25-foot wide driveway from Narbonne Avenue. The commercial component for the project consists of five commercial tenant spaces. The first will be located directly adjacent to Narbonne Ave., and is 507 square feet. The remaining four commercial spaces contain a two car parking garage on the first floor, a storage area on the second floor and an office mezzanine level on the third. Each of these four units has private secured parking attached to the commercial space. As previously mentioned, this will be a new concept in the City, however staff supports it and believes these types of spaces will attract small contractors, and other service type uses where a secure storage area is necessary. Staff has found that there is a lack of suitable locations for the City's many contractors and other construction related businesses to occupy. The project is providing 21 parking spaces for the commercial and residential component of the property. This meets the full required parking spaces for both types of uses. However, staff would like to see parking space number four and ten eliminated (as shown on the site plan) as they are not very functional spaces. There is ample on street parking on 250th St. and most mixed-use projects actually see a reduction in parking due to the ability to share the parking between the uses. Staff has added a condition of approval eliminating these spaces. Further a traffic study was prepared (further discussed below) and found the site to create minimal traffic impacts and had plenty of parking capacity.

The applicant is seeking a 10% reduction in the required commercial square footage. Staff can support this reduction due to the very narrow width of the lot fronting on Narbonne Ave. The entire width is only 50 feet, and 25 feet is allocated to the driveway, leaving only 25 feet of commercial frontage. Staff feels the applicant has been very creative in designing the commercial spaces as such to achieve 8,325 square feet of commercial space. The applicant is proposing high quality materials and a very pleasing design for both the commercial and residential components of the site. Due to the design of the project, combined with the narrow Narbonne Ave. frontage, staff believes a 10% reduction in commercial space is a good compromise to see a successful project.

Directly east of the commercial parking area is the residential portion of the site, which consists of 20 three-story townhouse style units each with a two-car garage. The townhomes are approximately 1,900 square feet, and consist of three bedrooms. Two of the units are fully handicap accessible with elevators inside the units. All the townhomes have one bedroom and bath at the ground level, the living areas/kitchen on the second level, and two bedroom/two

bathrooms on the third. The concept of having a bedroom and bathroom at the entrance level is in keeping with the changing family dynamics where several generations live in the same home. Each unit has a balcony off the second floor living area and a small patio at grade.

Landscaping

Landscape and hardscape amenities are proposed along the project perimeter and adjacent to the buildings. This includes new 24" box trees of various varieties and groundcover. Included as a condition of approval the applicant will need to submit a landscape plan for review and approval by the Director that must meet the City's landscape and water conservation requirements.

Traffic Review

A traffic study was prepared by the traffic engineering firm Lin Consulting for the proposed project. The traffic study concluded that the project would generate 202 daily weekday trips, of which 9 would occur during the a.m. peak hour and 12 during the p.m. peak hour. An intersection analysis was also conducted for the nearest intersection at Narbonne Ave. and 250th St., which found that the intersection is currently operating at a Level of Service (LOS) A and will continue to do so after project building out. The traffic study did also take into account the other projects which are currently being constructed/proposed in the vicinity. The traffic study does not see an impact on traffic due to the project and did not recommend any mitigation measures. The additional trips generated by this project would not have a significant impact on any intersection during either peak period. Further the General Plan EIR anticipated build out of the project site. The traffic study is found under separate cover at the City Hall offices and on the City website.

The project will be accessed via a private driveway from Narbonne Avenue and 250th St. Each residential unit has its own two-car garage plus there are four (staff is requesting three) guest spaces located to the rear within the residential area of the property. Both the residential and commercial areas meet the City's parking requirements and there is on-street parking in this location. Since the project meets parking requirements and will generate a negligible amount of traffic staff does not anticipate parking or traffic impacts on Narbonne Ave. or the surrounding area.

Conditional Use Permit

Staff reviewed the project in accordance with Section 11-1.70.09 (Conditional Use Permit) and determined that the project is consistent with the following findings:

1) *The proposed use is allowed within the District with approval of a CUP and complies with all other applicable requirements of this Article.*

The proposed mixed-use project consists of 20 townhomes and 8,325 square feet of commercial space. Mixed-use development of this nature is permitted within the C-G/Mixed-Use Overlay zone with approval of a CUP. The project complies with all the development standards required by Code.

2) *The proposed use is consistent with the General Plan.*

The General Plan designates this site as Mixed-Use. The proposed project, a mixed-use development with commercial and residential townhomes is consistent with the mixed-use general plan land use designation and meets density and floor area ratio requirements.

3) *The design, location, size, and operating characteristics are compatible with existing and future land uses, building and structures in the vicinity and the proposed use will not jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare or be materially detrimental to the property of other persons located in the vicinity.*

The proposed project is mixed-use, consisting of commercial and residential components. It is compatible with the existing commercial/residential uses which currently exist within the Commercial General Zone. The commercial portion of the project is proposed to front along Narbonne Ave. with the townhomes located on the rear portion of the lot. This will create the walkable environment envisioned by the mixed use overlay and bring new housing to support existing businesses in the Commercial General Zone. The project meets all applicable development standards and is consistent with the general plan. The project provides more than the required ten-foot setback from the residential neighbors to the rear of the property to aid as a buffer. Further, the proposed residential uses will be more compatible with the adjacent residential uses than some of the permitted commercial uses allowed within this zone. For these reasons the project will not be detrimental to other property or persons in the vicinity.

4) *The site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this chapter, or as required as a condition in order to integrate the use with the uses in the neighborhood.*

The project site is adequate to accommodate the project as demonstrated by its compliance with applicable City codes.

5) *The site is serviced by highways and streets adequate to carry the kind and quality of traffic such use would generate.*

The project site will be accessed from Narbonne Avenue which is a designated secondary highway within the City. A traffic study was prepared for the project and found that the primary intersection of impact (Narbonne Ave. and 250th St) would continue to operate at LOS "A" after project build-out and no mitigation measures were required.

Review of Vesting Tentative Tract Map

Staff has been working in conjunction with City's new engineering consultant for review of the proposed map. The consultant reviews the map in accordance with the Subdivision Map Act and Los Angeles County requirements. The consultant has reviewed and approved the map for accuracy and is recommending approval with the attached conditions which are attached to the resolution.

Environmental Determination

In accordance with Section 15332 (In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines, projects characterized as in-fill development meeting the conditions described in that section may be found to be exempt from the requirements of CEQA. The proposed mixed-use project consists of 8,325 square feet of commercial space and 20 residential units for a total building area of 48,179 square feet. The development is fully located within the City limits, is on less than five acres, is consistent with the applicable General Plan and Zoning designations, is fully served by all required utilities, and the site has no value for sensitive or endangered habitat. Staff has determined that there is no substantial evidence that the project may have a significant effect on the environment.

Public Notice

Notices of this hearing were mailed to all of the owners of properties within 300 feet of the subject property. Staff also posted notices at Lomita City Hall and Lomita Park. As of the date this staff report was prepared, staff has not received any correspondence either for or against the proposed project.

Recommended by:

Gary Y. Sugano
Assistant City Manager

Prepared by:

Alicia Velasco
Principal Planner

Exhibits:

a. Resolution
b. Vicinity Map
c. Zoning Map
d. General Plan Map
e. Aerial Photograph
f. Notice of Exemption
g. Site Plans/Floor Plans/Elevations/TTM

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RESOLUTION NO. 2016-35

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOMITA APPROVING CONDITIONAL USE PERMIT NO. 299 FOR THE DEVELOPMENT OF A PROPOSED MIXED-USE PROJECT CONSISTING OF 8,325 SQUARE FEET OF COMMERCIAL AREA, 20 TOWNHOUSE UNITS, AND 61 PARKING SPACES LOCATED AT 25024 NARBONNE AVE AND 2154 250TH STREET IN THE C-G, COMMERCIAL GENERAL ZONE. FILED BY CHERINE MEDAWAR, 3453 NEWRIDGE DRIVE, RANCHO PALOS VERDES, CA 90275.

Section 1. Recitals

A. The City Council of the City of Lomita has considered an application for Conditional Use Permit No. 299 and a Tentative Tract Map No. 073720 for the development of a proposed mixed-use project consisting of 8,325 square feet of commercial space, 20 townhouse units, and 61 parking spaces located at 25024 Narbonne Ave. and 2154 250th St., in the C-G, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275., ("Developer"), in accordance with Articles 3 and 8, Chapter 2 of Title XI of the Lomita Municipal Code.

B. On July 5, 2016, the City Council held a duly noticed public hearing and accepted testimony for and against the proposed project.

C. The subject site is zoned C-G (Commercial General) and designated "mixed-use" by the City's General Plan. Pursuant to Section 11-1.58.04 of the Lomita Municipal Code, a conditional use permit is required for all new mixed-use projects.

D. The proposed subdivision, together with the provisions for its design and improvement, is consistent with the City's General Plan.

E. In accordance with Section 15332 (In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines, projects characterized as in-fill development meeting the conditions described in that section may be found to be exempt from the requirements of CEQA. The proposed mixed-use project consists of 8,325 square feet of commercial space and 20 residential units for a total building area of 48,179 square feet. The development is fully located within the City limits, is on less than five acres, is consistent with the applicable General Plan and Zoning designations, is fully served by all required utilities, and the site has no value for sensitive or endangered habitat. The City Council has determined that there is no substantial evidence that the project may have a significant effect on the environment, and confirms the categorical exemption.

F. The Planning Commission held a duly noticed public hearing on June 13, 2016, and accepted testimony for and against the proposed project.

G. The City Council finds that the applicant agrees with the necessity of and accepts all elements, requirements, and conditions of this resolution as being a reasonable manner of preserving, protecting, providing for, and fostering the health, safety, and welfare of the citizenry in general and the persons who work, visit or live in this development in particular.

Section 2. Pursuant to Section 11-1.70.09 (Conditional Use Permit) of the Lomita Municipal Code, the City Council finds, after due study and deliberation that the following circumstances exist:

1) *The proposed use is allowed within the District with approval of a CUP and complies with all other applicable requirements of this Article.*

The proposed mixed-use project consists of 20 townhomes and 8,325 square feet of commercial space. Mixed-use development of this nature is permitted within the C-G/Mixed-Use Overlay zone with approval of a CUP. The project complies with all the development standards required by Code.

2) *The proposed use is consistent with the General Plan.*

The General Plan designates this site as Mixed-Use. The proposed project, a mixed-use development with commercial and residential townhomes is consistent with the mixed-use general plan land use designation and meets density and floor area ratio requirements.

3) *The design, location, size, and operating characteristics are compatible with existing and future land uses, building and structures in the vicinity and the proposed use will not jeopardize, adversely affect, endanger or otherwise constitute a menace to the public health, safety or general welfare or be materially detrimental to the property of other persons located in the vicinity.*

The proposed project is mixed-use, consisting of commercial and residential components. It is compatible with the existing commercial/residential uses which currently exist within the Commercial General Zone. The commercial portion of the project is proposed to front along Narbonne Ave. with the townhomes located on the rear portion of the lot. This will create the walkable environment envisioned by the mixed use overlay and bring new housing to support existing businesses in the Commercial General Zone. The project meets all applicable development standards and is consistent with the general plan. The project provides more than the required ten-foot setback from the residential neighbors to the rear of the property to aid as a buffer. Further, the proposed residential uses will be more compatible with the adjacent residential uses than some of the permitted commercial uses allowed within this zone. For these reasons the project will not be detrimental to other property or persons in the vicinity.

4) *The site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features*

prescribed in this chapter, or as required as a condition in order to integrate the use with the uses in the neighborhood.

The project site is adequate to accommodate the project as demonstrated by its compliance with applicable City codes.

5) *The site is serviced by highways and streets adequate to carry the kind and quality of traffic such use would generate.*

The project site will be accessed from Narbonne Avenue which is a designated secondary highway within the City. A traffic study was prepared for the project and found that the primary intersection of impact (Narbonne Ave. and 250th St) would continue to operate at LOS "A" after project build-out and no mitigation measures were required.

Section 3. The City Council of the City of Lomita hereby approves Conditional Use Permit No. 299 subject to the following conditions:

GENERAL PROJECT CONDITIONS

1. The conditions of approval within Planning Commission Resolution No. 2016-09

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lomita hereby approves Conditional Use Permit No. 299. The decision of the City Council is final and conclusive as to all things involved.

PASSED, APPROVED AND ADOPTED this 5th day of July, 2016.

Jim Gazeley
Mayor

ATTEST:

Sandra M. Medina,
City Clerk

I hereby certify the foregoing resolution was duly adopted by the City Council of the City of Lomita at a regular meeting held on the 5th day of July 2016, by the following vote:

AYES: Council Members: Traina, Sanchez, Savidan, Mayor Pro Tem Waronek, and Mayor Gazeley

NOES: None

ABSENT: None

Sandra M. Medina,
City Clerk

The motion carried by the following vote:

AYES: Council Members: Traina, Sanchez, Savidan; Mayor Pro Tem Waronek and Mayor Gazeley

NOES: None.

ABSENT: None.

9. PUBLIC HEARING – CONSIDERATION OF CONDITIONAL USE PERMIT NO. 299 AND TENTATIVE TRACT MAP NO. 073720, FOR A MIXED-USE PROJECT CONSISTING OF 8,325 SQUARE FEET OF COMMERCIAL AREA AND 20 TOWNHOUSE UNITS

Principal Planner Velasco stated the project will consist of a new three-story, 8,325 square foot commercial building with 20 three-story townhome units. All townhome units will have fully enclosed individual two-car garage parking with four designated visitor parking. The commercial building fronts Narbonne Avenue and provides 21 enclosed parking spaces which meet the requirement for both uses. She stated that after 6:00 p.m. the commercial parking spaces would be available for use by residential guests. Ms. Velasco stated the proposed project provides 8,325 square feet of commercial space which equates to a commercial ratio of 20%. The mixed-use ordinance recommends a 30% commercial ratio; however, this can be reduced through the conditional use permit process. Staff supports this reduction due to limited visibility and minimal frontage on Narbonne Avenue as the frontage is only 50 feet wide. Ms. Velasco stated this project went before the Planning Commission three times and a resolution was reached to modify the site plan, which included the reduction of one unit and enhanced parking. A traffic study was prepared and determined the traffic would continue to operate a level service of A. Ms. Velasco stated that with all the requirements being met, staff recommends that the conditional use permit and tentative tract map be approved.

A discussion was held relative to the reduction made to the balconies and which balconies were eliminated. Ms. Velasco stated that the balconies were eliminated on the third floor and on the second floor the balconies were reduced in size.

The Council asked if the commercial parking spaces could be available for guests on weekends and holidays.

Council discussed the concerns that were raised at the Planning Commission meetings.

Ms. Velasco pointed out the various development fees the City would receive from this development.

The Council discussed the design of the units and stated that an incorporation of craftsman style elements would be more desirable and fit with the current residential housing for that area.

Mayor Gazeley opened the public hearing.

<u>The following individuals spoke in support of the development:</u>
Ste'von Afemata
Miyashi Daily

Garrick Psich
Tom Battelle
Rachon Daily
Gilbert Watson
George Kivett

Cindy Segawa, a Lomita resident, spoke in opposition of the project, expressing concern with parking along Narbonne. She stated that parking is already an issue and to add commercial with residential living will only create more parking issues.

Barbara Paulson, a Lomita resident, spoke in opposition to the project. She stated that she did not support this project at the Planning Commission meetings, but has just given up on fighting it. Ms. Paulson stated that she too preferred a craftsman style design for the housing frontage.

Gerald Compton, architect for the project stated that he has worked very well with Planning staff and complimented staff for doing a great job. He stated that changing the design to a craftsman style design may cause problems later on in years due to wood deterioration. He stated that the project will take approximately 12 months for construction from breaking ground.

The Council discussed changing the frontage design along 250th and Narbonne Avenue to allude to a craftsman's style façade.

Res 2016-35 – A Resolution of the City Council of the City of Lomita approving Conditional Use Permit No. 299 for the development of a proposed Mixed-Use Project consisting of 8,326 square feet of commercial area, 20 townhouse units, and 61 parking spaces located at 25114-25118 Narbonne Avenue in the C-G, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275.

Res 2016-36 – A Resolution of the City Council of the City of Lomita approving Tentative Tract Map No. 073720 for the development of a proposed Mixed-Use Project consisting of 8,325 square feet of commercial area, 20 townhouse units, and 61 parking spaces located at 25114-25118 Narbonne Avenue, in the CG, Commercial General Zone. Filed by Cherine Medawar, 3453 Newridge Drive, Rancho Palos Verdes, CA 90275.

MOTION: Council Member Savidan made a motion seconded by Mayor Pro Tem Waronek that following the hearing, the City Council approve the following:

1) Adopt resolutions approving Conditional Use Permit No. 299 and Tentative Tract Map No. 073720, to permit a mixed-use project consisting of 8,325 square feet of commercial area, 20 townhouse units, and 61 parking spaces located at 25024 Narbonne Avenue and 2154 250th Street, in the C-G Commercial General Zone; and to add a condition that that would require the developer to incorporate craftsman style design elements into the frontage of the project along 250th Street and Narbonne Avenue to subject to the approval of the Community Development Director; and that the commercial parking be accessible to residents

visiting the complex during weekends, holidays and when the businesses are closed.

The motion carried by the following vote:

AYES: Council Members: Traina, Sanchez, Savidan; Mayor Pro Tem Waronek and Mayor Gazeley

NOES: None.

ABSENT: None.

10. PUBLIC HEARING – CONFIRMATION OF A LIEN FOR THE COLLECTION OF NUISANCE ABATEMENT COSTS FOR THE PROPERTY LOCATED AT 26011 CAYUGA AVENUE

A Resolution of the City Council of the City of Lomita ordering the recordation of an abatement lien against the property located at 26011 Cayuga Avenue, Lomita (APN 7553-016-001) in the amount of $7,372.25 and permitting the collection of interest in the amount of seven percent per year.

City Manager Smoot stated this item is being continued to a later date.

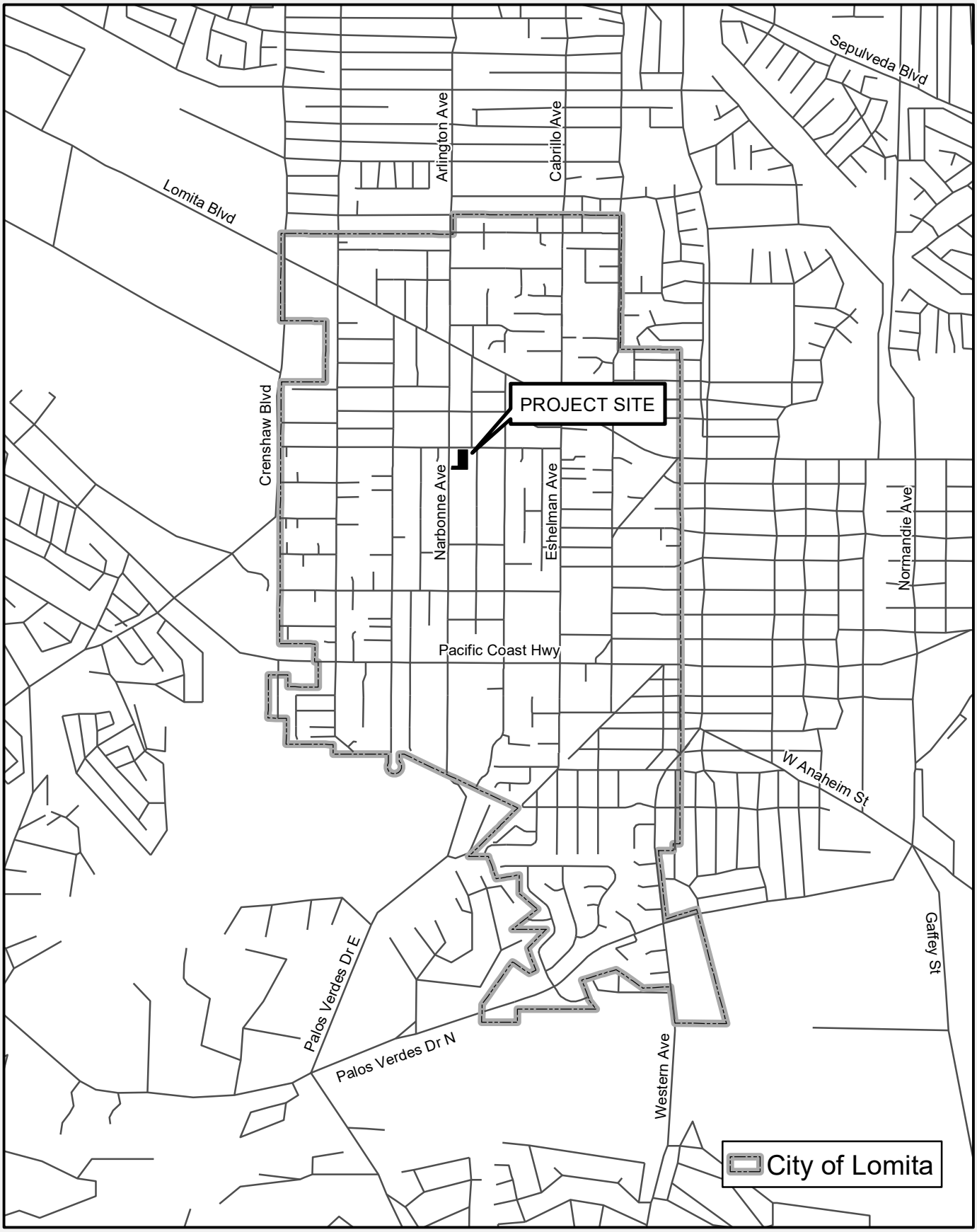
SCHEDULED ITEMS:

11. CONSIDERATION OF AN AWARD OF A PUBLIC WORKS AGREEMENT TO ROY ALLAN SLURRY SEAL, INC. FOR THE FY 2016-17 SLURRY SEAL PROGRAM

Public Works Director McAvoy stated the Slurry Seal Program for FY 2016-17 focuses on providing slurry seal within zones B, D, & E, which is comprised mainly of residential streets. Work includes asphalt patching, crack sealing and striping and markings. He stated that there was an addition to the bid schedule to add asphalt pavement improvements on Woodard Avenue between 250th and 255th Streets, as the pavement in that area is very deteriorated. Mr. McAvoy stated the project was advertised for bids in the Daily Breeze and a total four proposals were received. He stated the lowest responsible bidder was Roy Allan Slurry Seal, Inc., with the bid of $443,542.56. Roy Allan has received great recommendations from other cities where work was performed. Based on this, staff is recommending awarding the contract to Roy Allan Slurry Seal Inc.

Mr. McAvoy stated the project is scheduled to begin the end of July and Public Works staff will manage the project. A total of $650,000 has been allocated in the budget for this project.

Council asked if the redesign of the corner Walnut Avenue and Ebony Lane were part of the slurry seal project. Mr. McAvoy stated that Walnut Avenue has been deferred a few months to re-evaluate the corner and look at coordinating Walnut Avenue street improvements and redesign of the corner to be completed when the water main line project for that area is started.

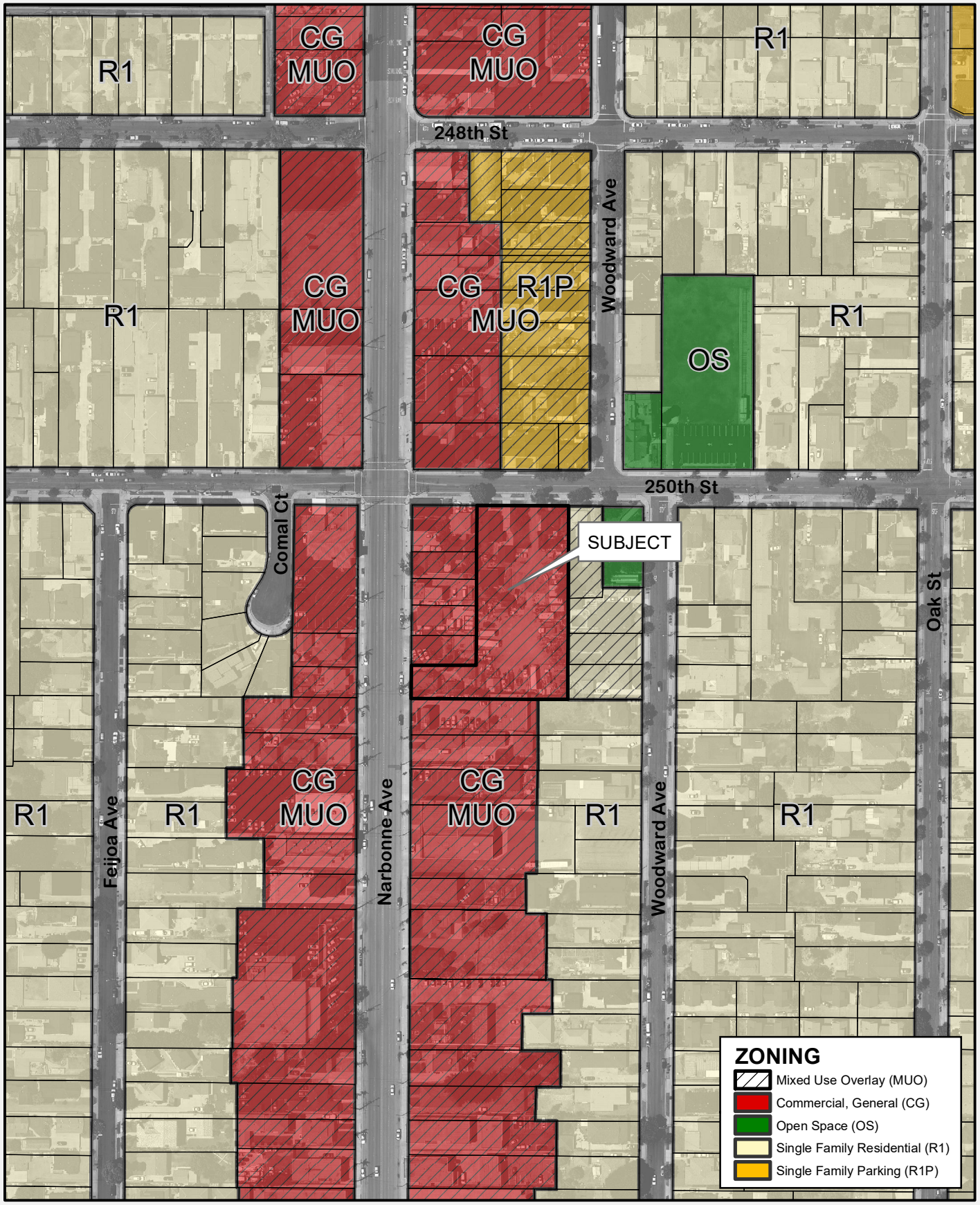


Amendment to CUP No. 299
Condominium Tract 73720
2154 250th Street & 25024 Narbonne Avenue
Exhibit B

Community Development
January 2021

Source: Lomita GIS Data Layers, TIGER Files
GIS/Apps/2154_250th_3vty.mxd

0 500 1,000
Feet



Lomita

Amendment to CUP No. 299
Condominium Tract 73720
2154 250th Street & 25024 Narbonne Avenue
Exhibit C

Community Development
January 2021

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Source: Lomita GIS Data Layers
GIS/Apps/2154_250th_3zon.mxd

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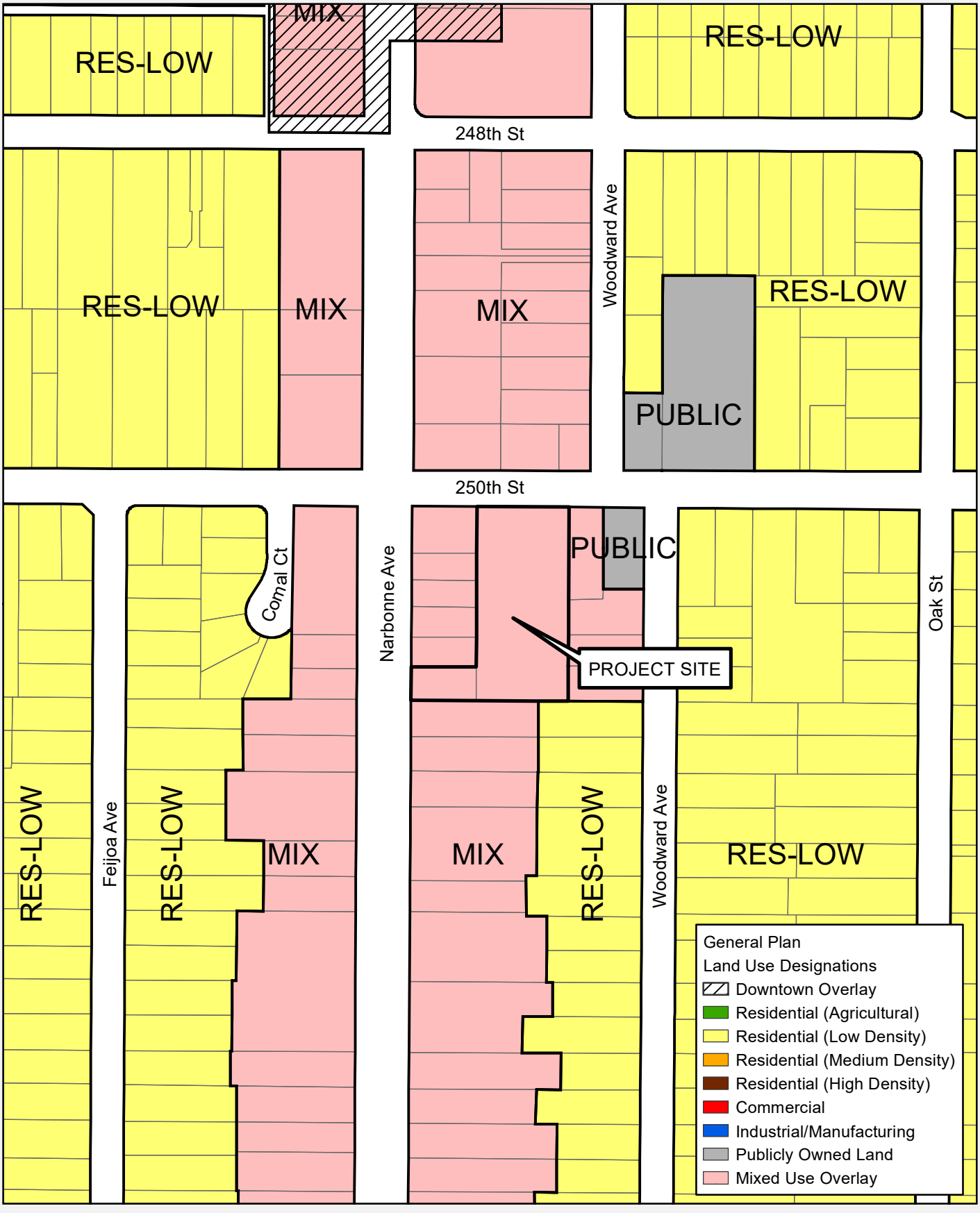

Amendment to CUP No. 299
Condominium Tract 73720
2154 250th Street & 25024 Narbonne Avenue
Exhibit D

Community Development
January 2021

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Source: Lomita GIS Data Layers
GIS/Apps//2154_250th_3gp.mxd

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Amendment to CUP No. 299
Condominium Tract 73720
2154 250th Street & 25024 Narbonne Avenue
Exhibit E

Community Development
January 2021

Source: Lomita GIS Data Layers
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N W E S

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Feet

EXHIBIT 6

COMMERCIAL BUILDING

SHEET INDEX

SHEET NO	SHEET TITLE
ARCHITECTURAL	
A0	COVER PAGE
A1	COMPLETE MULTIUSE SITE PLAN FOR REFERENCE
A1.1	SITE PLAN – BUILDING 7 ONLY
A4.1.1	BUILDING 7 FLOOR PLANS
A4.1.2	BUILDING 7 FLOOR / ROOF PLAN
A5.1	BUILDING 7 ELEVATIONS
C–0	SURVEY

PROPOSED MULTI-USE

COMMERCIAL-LIVE / WORK

2154 250TH STREET AND 25024 NARBONNE AVE
LOMITA, CALIFORNIA 90717

PROPOSED LIVE / WORK REVISIONS TO EXISTING COMMERCIAL BLDG.

SCOPE OF WORK

Re-task newly constructed building to provide 2 LIVE / WORK Residential Units of the 5 Existing Commercial Units. Convert 2542 sf to Living Environment of the original 8108 sf, modifiying the original Commercial to Residential percentage to 12.2% of the 46,308 sq. ft. Total Building Area, in order to to adapt to our new reality and Conform to Market Demand for this type of Unit. No changes are anticipated to the existing Residential Buildings. Work areas shown hatched at Units 3-4.

CONSULTANTS

ARCHITECT: GERALD W. COMPTON AIA
1200 ARTESIA BLVD. STE 300
HERMOSA BEACH, CA 90254
Phone: (310) 379-8222 Email: gwcdesign@earthlink.net

STRUCTURAL ENGINEER: CCD ENGINEERS
20062 MERRIDAY AVE
CHATSWORTH, Ca 91311
Phone: 818-207-2904

SOILS ENGINEER: WESTERN LABORATORIES
2501 W. 237TH STREET
TORRANCE, Ca 90505
Phone: 310-530-8900

CIVIL ENGINEER: DENN ENGINEERING
3914 DEL AMO BLVD STE 921
TORRANCE, Ca 90503
Phone: 310-542-9433

TITLE 24 CALCULATIONS: PERFECT DESIGN & DEV. INC.
MECHANICAL ENGINEER: 2416 W. Valley Blvd.
ELECTRICAL ENGINEER: Alhambra, Ca 91803
PLUMBING ENGINEER: Phone: 626-289-8808 Email: perfectAAA@aol.com

Legal Description

Assessor ID No. 7373-001-012
Commercial Lot Only

Code Research

Zoning:	Multi-use Zone - (Commercial Area)
Setbacks	
Front:	None
Sides:	None
Rear:	None
Height Limit:	35'-0" Max - (40' by CBC)
Type of Construction:	VB Sprinklered
Number of Stories:	**3 (Increase allowed per se)c 504.2**
Maximum Area:	**9000 sf - ok**
Occupancy Class:	**R3 / B / S2**

ISSUANCE
PLANNING REVIEW
6-11-2020

REVISION

LIVE / WORK REVISIONS

COVER PAGE – SHEET INDEX

250TH & NARBONNE MULTI-USE REVISIONS
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA

Job No. 88715110 | Scale: NO SCALE

1200 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 379-8222
GWC ARCHITECTS

A0
(7)

COMMERCIAL–LIVE/WORK – BUILDING #7 PLAN MODIFICATIONS

RESIDENTIAL HOUSING - AREA TABULATION:

20 UNITS @ 1910 SF / UNIT = 38,200 SF X 21.2%= 8,108 SF

UNITS A-B-C-D - 17 UNITS	1 UNIT	X 17	
GROUND FLOOR			
GARAGE		414 SF	7038 SF
HABITABLE AREA		394 SF	6698 SF
PATIO AREA	VARIES	70 SF MIN	1190 SF
SECOND FLOOR			
HABITABLE AREA		686 SF	11,662 SF
DECK AREA		81 SF	1,377 SF
THIRD FLOOR			
HABITABLE AREA		830 SF	14,110 SF
TOTAL HABITABLE		1,910 SF	32,470 SF
TOTAL DECK /PATIO AREA		151 SF	2,567 SF
UNITS E-F- 3 UNITS	1 UNIT	X 3	
GROUND FLOOR			
GARAGE		414 SF	1,242 SF
HABITABLE AREA		394 SF	1,182 SF
PATIO AREA	VARIES	70 SF MIN	210 SF
SECOND FLOOR			
HABITABLE AREA		686 SF	2,058 SF
DECK AREA		81 SF	243 SF
THIRD FLOOR			
HABITABLE AREA		830 SF	2,490 SF
TOTAL HABITABLE		1910 SF	5,730 SF
TOTAL DECK /PATIO AREA		151 SF	453 SF

PARKING PROVIDED - 2 CAR GARAGE PER UNIT +
.25 PER UNIT GUEST = 5 GUEST SPACES
GUESTS PROVIDED - 11 SHARED SPACES

OPEN SPACE CALCULATIONS:

TOTAL LOWER LEVEL PATIO AREA	1918 SF
TOTAL COMMON AREA OPEN SPACE	697 SF
TOTAL SECOND LEVEL DECK AREA	1600 SF
COMMERCIAL LIVE / WORK OS DECK AREA	240 SF
TOTAL OPEN SPACE PROVIDED	4454 SF

4400 SF REQUIRED (200 SF PER UNIT) - OK

Area Tabulation

LOT SQUARE FOOTAGE:

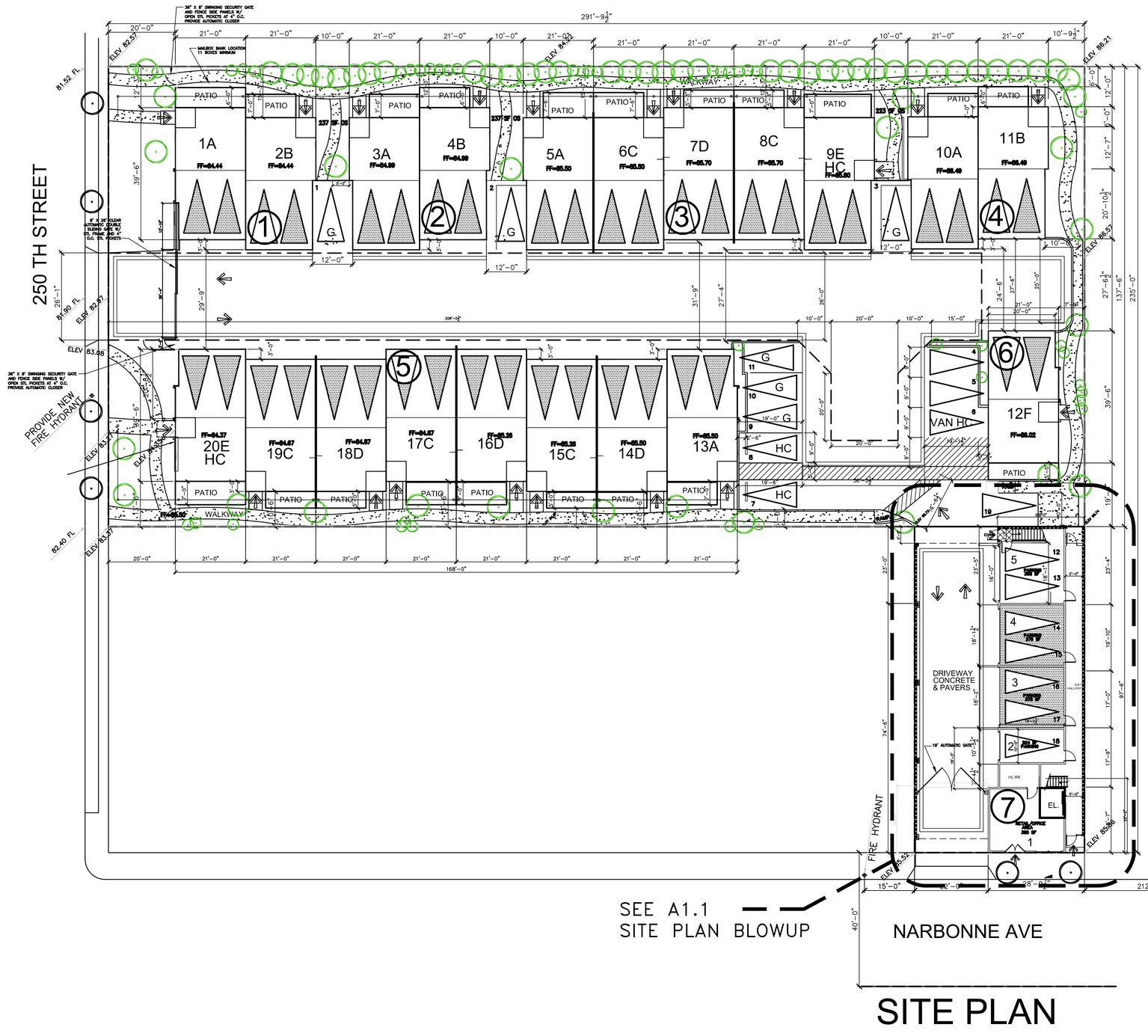
RESIDENTIAL LOT - 137.46 X 291.85 = 40,116.33 SQ. FT.
COMMERCIAL LOT - 50.80 X 97.49 = 4,952.49 SQ. FT.
TOTAL = 45,068.82 SQ. FT.

MAXIMUM FAR - 1.5 = 67,603.23 SQ. FT. MAXIMUM
ACTUAL FAR - 1.07 = 48,179 SQ. FT.

SQUARE FOOTAGE PER BUILDING:

BUILDING 1	3820 SF
BUILDING 2	3820 SF
BUILDING 3	9550 SF
BUILDING 4	3820 SF
BUILDING 5	15280 SF
BUILDING 6	1910 SF
BUILDING 7	8108 SF

LIVE AREA - 2542 SF
WORK AREA - 5566 SF



SEE A1.1
SITE PLAN BLOWUP

SITE PLAN

ISSUANCE
PLANNING REVIEW
6-11-2020

REVISION

LIVE / WORK REVISIONS

SITE PLAN / AREA TABULATION

250TH & NARBONNE MULTI-USE REVISIONS
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA

Job No. 88715110 | Scale: 1/16"=1'-0"

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Hermosa Bch., California
90254 (310) 379-8222
GWC ARCHITECTS

A1
(7)

COMPLETE MULTI-USE SITE PLAN
COMMERCIAL-LIVE/WORK - BUILDING #7 PLAN MODIFICATIONS

COMMERCIAL LOFT CONDOMINIUM BUILDING
OFFICE / STORAGE / LIVE WORK SPACES
AREA TABULATION PER FLOOR:

TOTAL LOWER FLOOR = 4709 SF
COVERED PARKING AREA = 1293 SF + PKG LOT

PARKING ANALYSIS: - 19 PROVIDED
7 COVERED PKG - 11 UNCOVERED
GUEST SPACES - 6 SPACES PROVIDED
(5.5 REQUIRED -.5 LIVE / WORK - 5 FOR RESIDENTIAL UNITS)
SHARED PARKING ARRANGEMENT-

PARKING REQUIRED PER FLOOR OF COMMERCIAL BUILDING -

GROUND FLOOR: 1.28 SPACES
FRONT RETAIL SPACE #1 = 385 SF 1 PER 300 (1.28 SPACES)

SECOND FLOOR: 10.95 SPACES
#2 - WAREHOUSE / STRG = 754 SF 1 PER 400 (1.89 SPACES)
OFFICE SPACE = 91 SF 1 PER 300 (0.30 SPACES)
#3 - 4 LIVE REQMNTS = 4 SPACES + .5 GUEST-(4.5 SPACES)
#3 - 4 WORK REQUIREMENTS
388 SF 1 PER 300 SF (1.29 SPACES)
#5 - WAREHOUSE / STRG = 744 SF 1 PER 400 (1.86 SPACES)
OFFICE SPACE = 91 SF 1 PER 300 (0.30 SPACES)

MEZZANINE FLOOR: 3.07 SPACES
#2 - OFFICE SPACE = 271 SF 1 PER 300(0.90 SPACES)
#3 - 4 WORK REQUIREMENTS = 368 SF@ $\frac{1}{300}$=(1.27 SPACES)
#5 - OFFICE SPACE = 271 SF 1 PER 300 (0.90 SPACES)

TOTAL LEASABLE AREA = 4053 SF
PARKING- 15.3 SPACES REQD - 19 SPACES PROVIDED
SHARED PARKING PER CODE.

PERCENTAGE OF COMMERCIAL = 12.02 % OF HOUSING AREA
SEE ANALYSIS BELOW.

UNIT SUMMARY:	LOWER	2ND FLR	MEZZ	TOTALS
1 NO CHANGE	385 SF	0 SF	0 SF	385 SF
2 NO CHANGE	0 SF	841 SF	271 SF	1112 SF
3 WORK-OFFICES	0 SF	94 SF	100 SF	194 SF
3 LIVE	0 SF	816 SF	230 SF	1046 SF
4 WORK-OFFICES	0 SF	94 SF	100 SF	194 SF
4 LIVE	0 SF	816 SF	230 SF	1046 SF
5 NO CHANGE	0 SF	835 SF	271 SF	1106 SF
TOT. LIVE AREA (PLUS GARAGES)	0 SF	1472 SF	320 SF	1792 SF
TOT. WORK SF (PLUS GARAGES)	385 SF	2036 SF	870 SF	3291 SF
TOT. LEASE SF	385 SF	3508 SF	1206 SF	5299 SF
PKG & CIRC. SF	1520 SF	676 SF	0 SF	2196 SF
TOTAL / FLOOR	2518 SF	4384 SF	1206 SF	
TOTAL AREA BUILDING 7				8,108 SF

COMMERCIAL PERCENTAGE CALCULATION:
TOTAL AREA BUILDINGS 1-7 = 38,200+8,108 = 46,308 SF
TOT COMMERCIAL BUILDING AREA - 8108 SF MINUS
TOTAL LIVE AREA = 1792 + 375 + 375 - 2542 SF
TOTAL WORK AREA BUILDING 7 = 5566 SF

COMMERCIAL-WORK AREA PERCENTAGE - 5566 / 46308 = 12.02 %

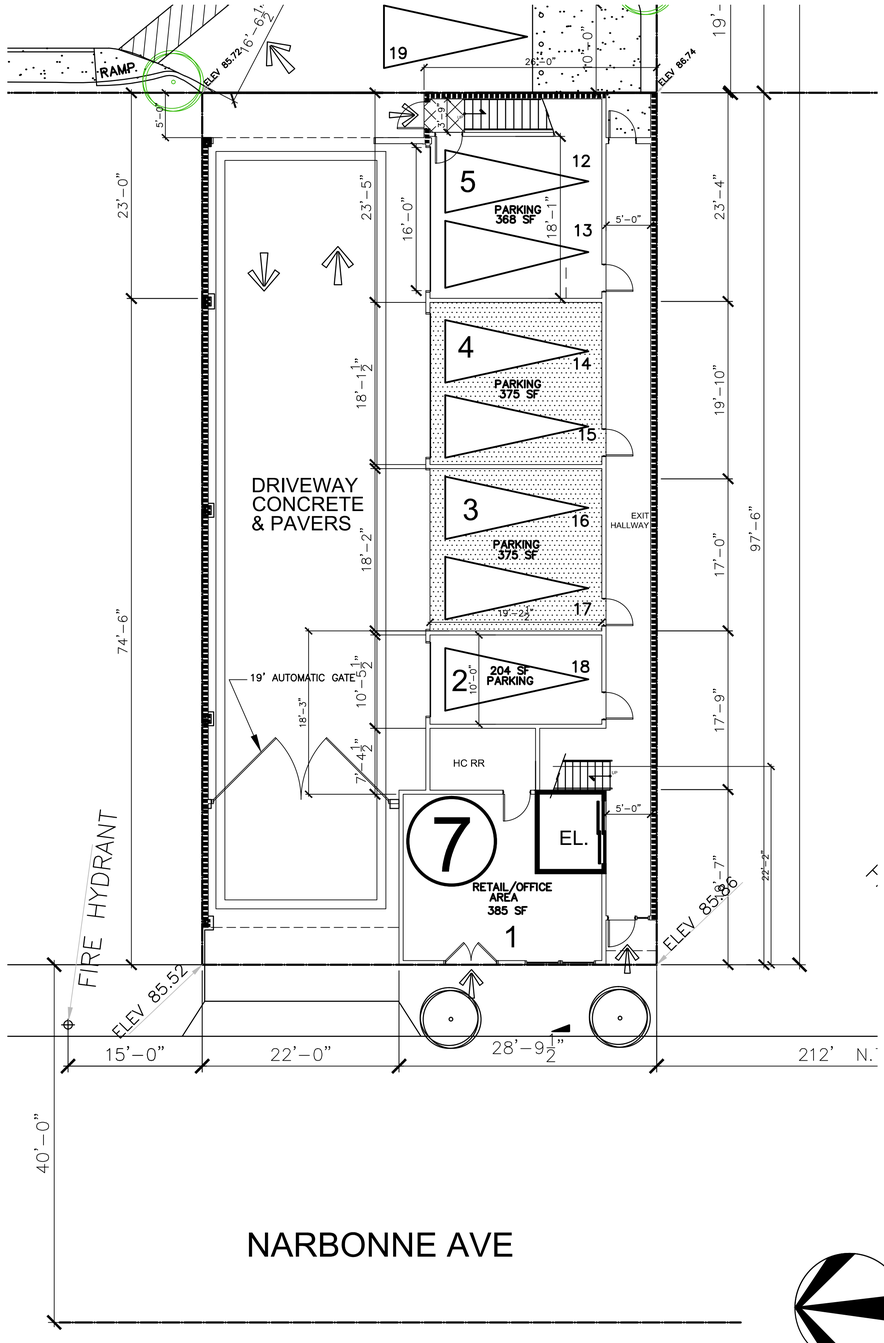
Code Research

Legal Description
Assessor ID No. 7373-001-012

Zoning:	Multi-use Zone - (Commercial Area)
Setbacks	
Front:	None
Sides:	None
Rear:	None
Height Limit:	35'-0" Max - (40' by CBC)
Type of Construction:	VB -Sprinklered
Number of Stories:	**2+ MEZZANINE (Increase allowed per sec 504.2)**
Maximum Area:	**9000 sf - ok**
Occupancy Class:	**B / R3 / S2**

Occupant Tabulation

BUILDING 7 -
5 TOTAL UNITS
UNIT 1 - RETAIL SPACE AT LOWER FLOOR-* NO CHANGE
UNIT 2 - STORAGE / OFFICE UNIT -* NO CHANGE
UNIT 3 - PROPOSED LIVE / WORK UNIT - 2 OCCUPANTS
UNIT 4 - PROPOSED LIVE / WORK ACCESSIBLE UNIT - 2 OCC.
UNIT 5 - STORAGE / OFFICE UNIT -* NO CHANGE



NARBONNE AVE

SITE PLAN

BUILDING 7

ISSUANCE
PLANNING REVIEW
6-11-2020

REVISION

LIVE / WORK REVISIONS

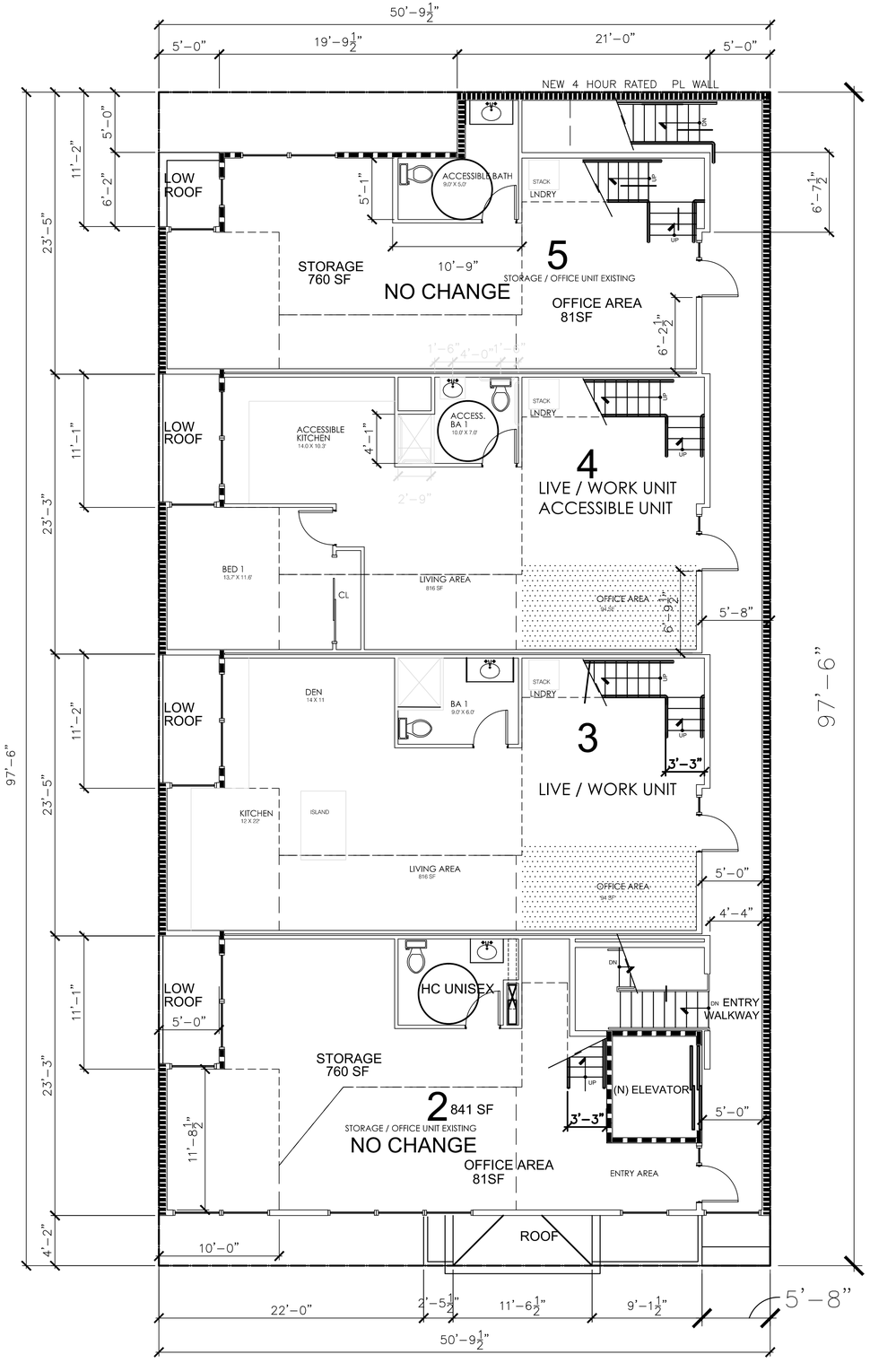
SITE PLAN / AREA TABULATION

250TH & NARBONNE MULTI-USE REVISIONS
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

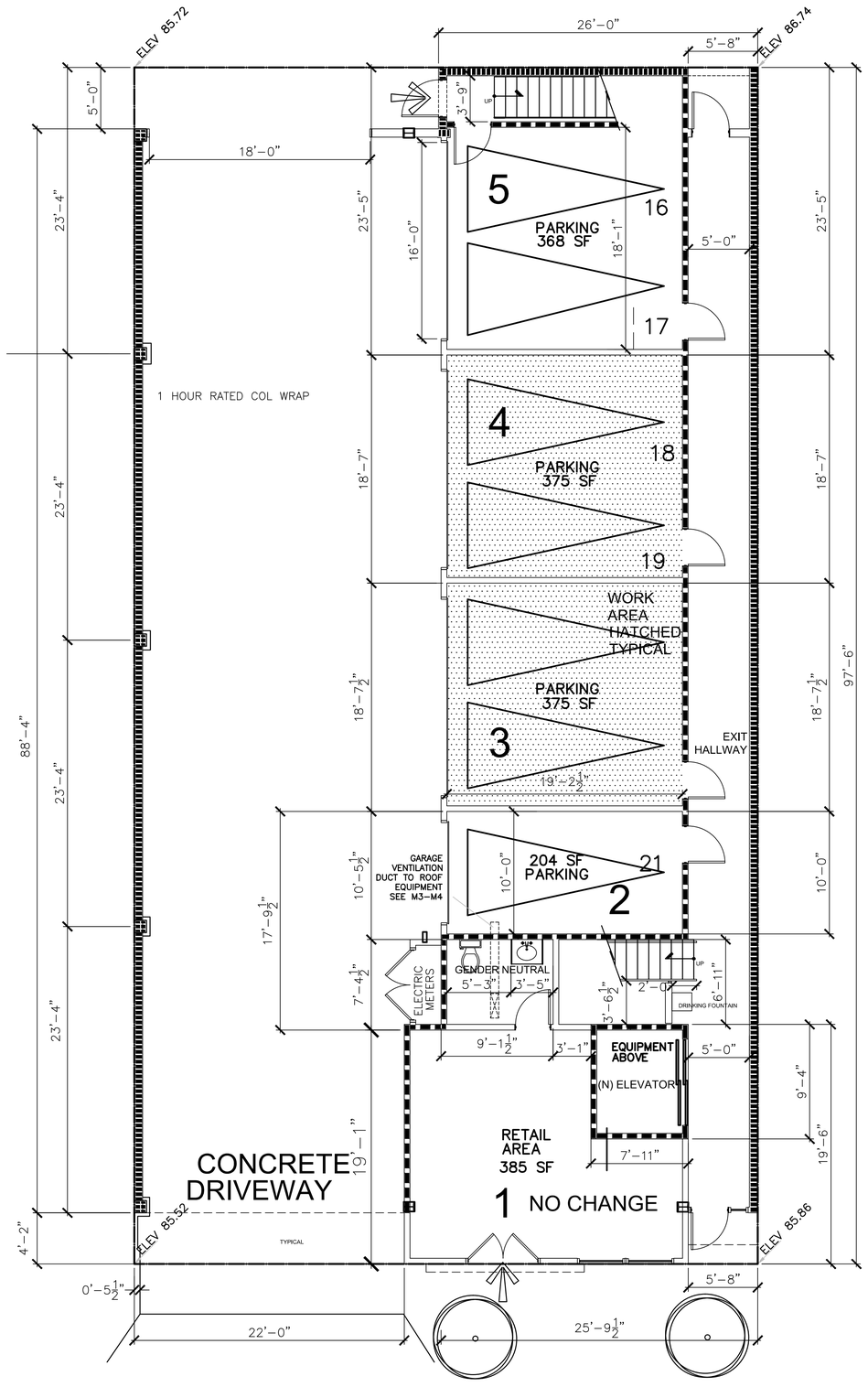
GERALD W. COMPTON AIA
1200 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 379-8222
GWC ARCHITECTS

Job No. 88715110 | Scale: 1/16"=1'-0"

A1.1
(7)



SECOND LEVEL



GROUND LEVEL

ISSUANCE
PLANNING REVIEW
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LIVE / WORK REVISIONS

MODIFIED USE BLDG FLOOR PLANS

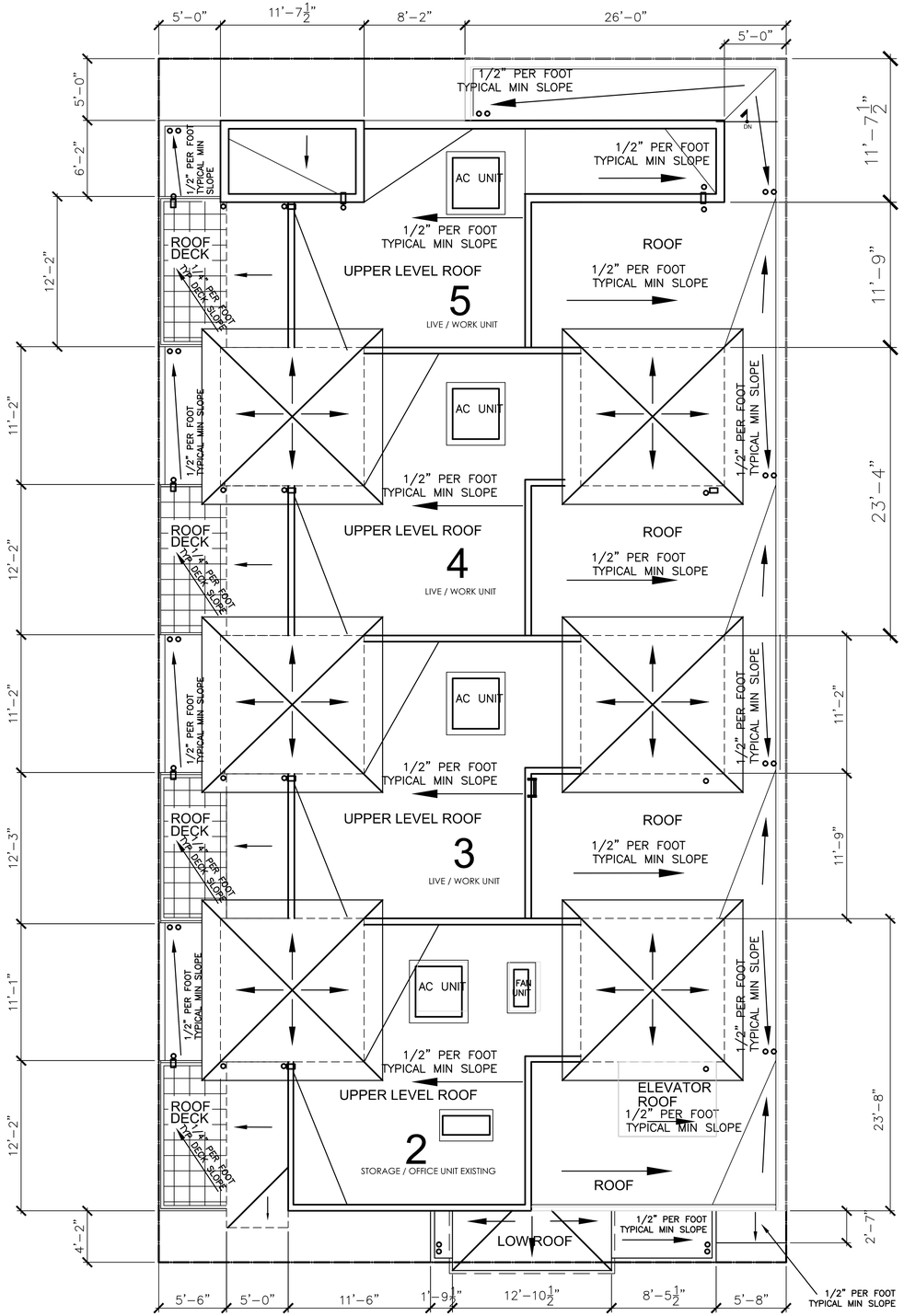
250TH & NARBONNE MULTI-USE REVISIONS
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

GERALD W. COMPTON AIA

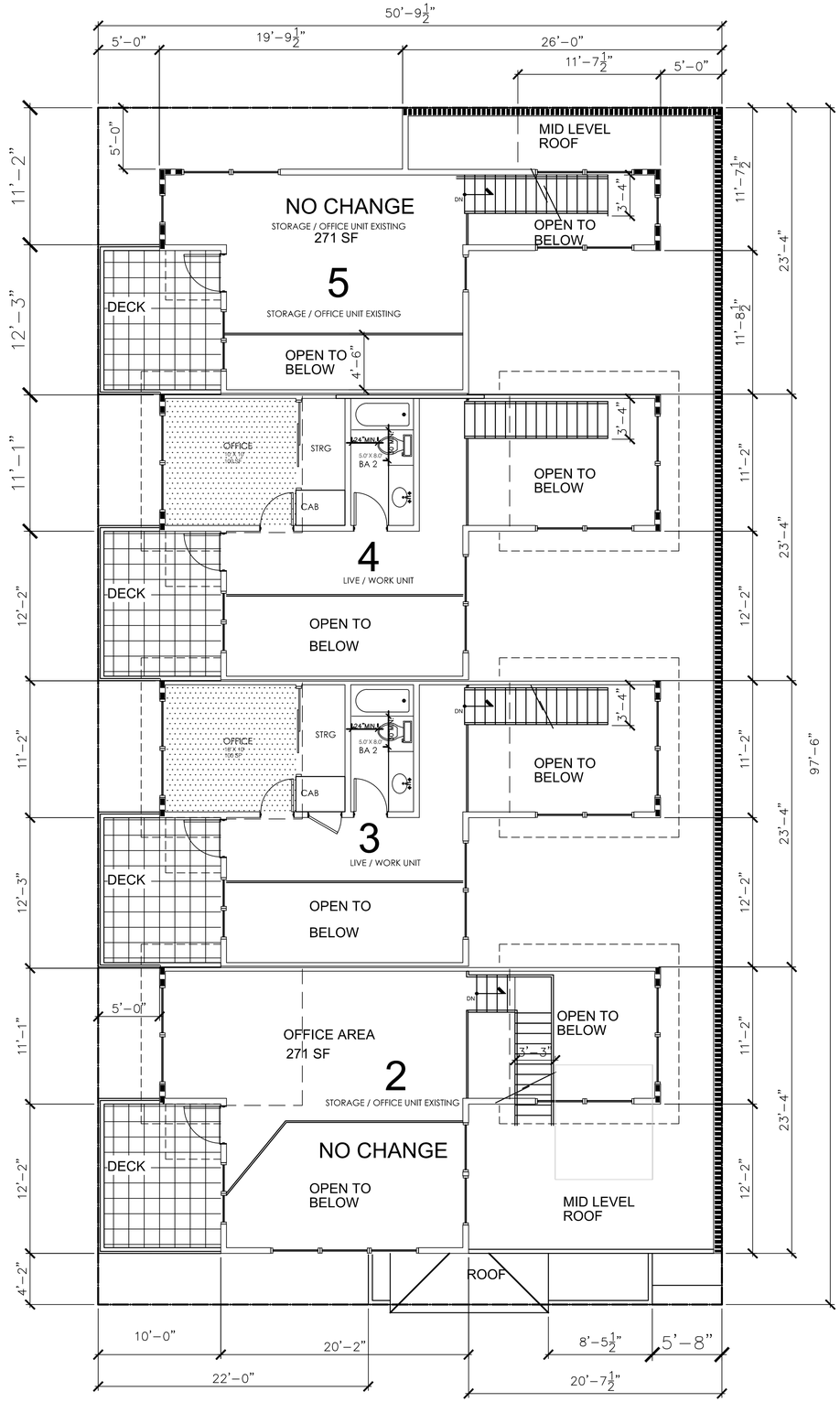
Job No. 88715110 | Scale: 3/16"=1'-0"

1200 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 379-8222
GWC ARCHITECTS

A4.1.1
(7)



ROOF PLAN



MEZZANINE LEVEL

ISSUANCE
PLANNING REVIEW
6-11-2020

REVISION

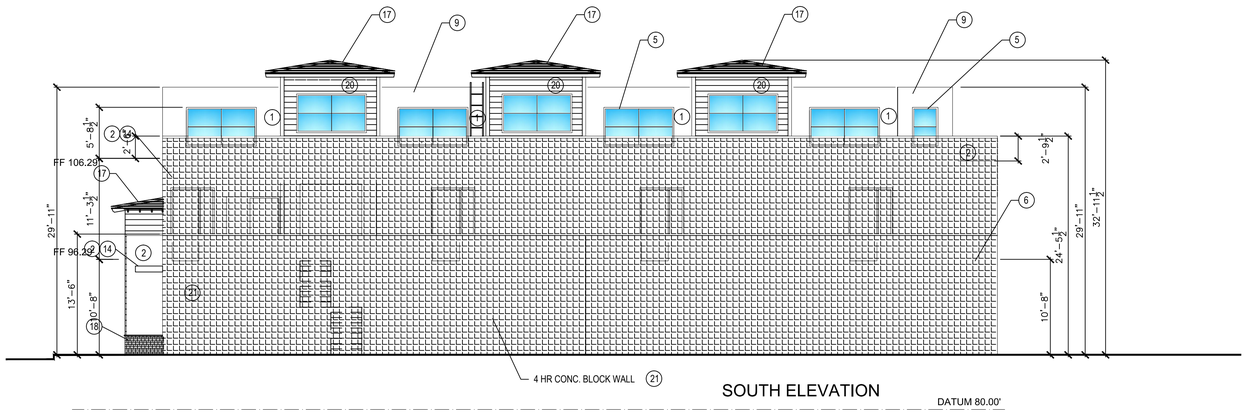
COMMERCIAL BLDG FLOOR / ROOF PLANS

250TH & NARBONNE MULTI-USE REVISIONS
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

LIVE / WORK REVISIONS

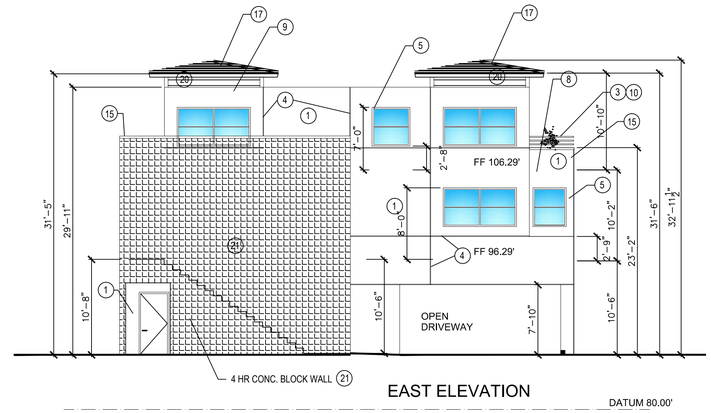
GERALD W. COMPTON AIA
Job No. 88715110
Scale: 3/16"=1'-0"
1200 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 379-8222
GWC ARCHITECTS

A4.1.2
(7)



SOUTH ELEVATION

DATUM 80.00'

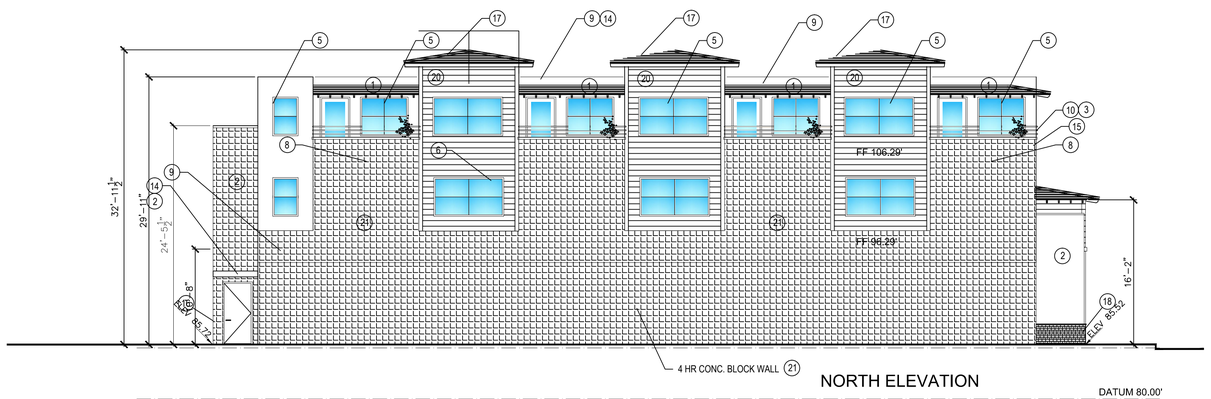


EAST ELEVATION

DATUM 80.00'

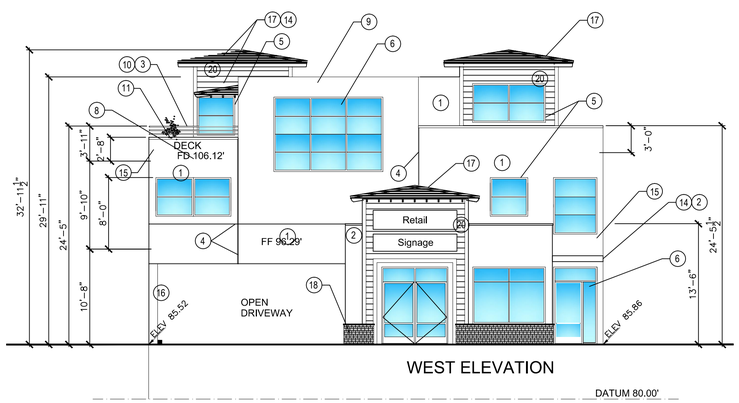
EXTERIOR FINISH SCHEDULE:

1. SMOOTH FINISH STUCCO - LIGHT BROWN)
2. SMOOTH FINISH STUCCO - MEDIUM BROWN)
3. GALV. STEEL GUARDRAIL - DARK BROWN TRIM
4. FRYE REGLET -ALUMINUM EXPANSION JOINT
5. ANODIZED ALUMINUM WINDOW SASH W/ LT TINTED GLASS - TYPICAL
6. STOREFRONT WINDOW WALL UNIT
7. SECTIONAL ROLL-UP GARAGE DOOR
8. DEXOTEX OR APPROVED EQUAL DECK'G
9. APPROVED ROOFING-SEE A1.1
10. HANDRAIL-36" OR GUARDRAIL-42"
11. PLANT SHELF
12. LOW ROOF AREA-SLOPED TYPICAL-SEE A1.1
13. 3X3 DRAIN SPOUT
14. ENTRY ROOF OVERHANG
15. 30" PARAPET WALL AT PROP LINE
16. COLUMN AT GROUND LEVEL
17. GREY SHINGLE ROOFING-SEE A1.1
18. STACKED STONE FACING
19. 5' FENCE AT PATIOS AND PROPERTY LINES
20. HORIZONTAL PLANK SIDING - 1X6 TYPICAL
21. 8X16 SCORED TO 8X8 CONC. BLOCK



NORTH ELEVATION

DATUM 80.00'



WEST ELEVATION

DATUM 80.00'

BUILDING 7 ELEVATIONS
EXISTING ELEVATIONS – NO CHANGE

ISSUANCE
PLANNING REVIEW
6-11-2020

REVISION

BUILDING 7 ELEVATIONS

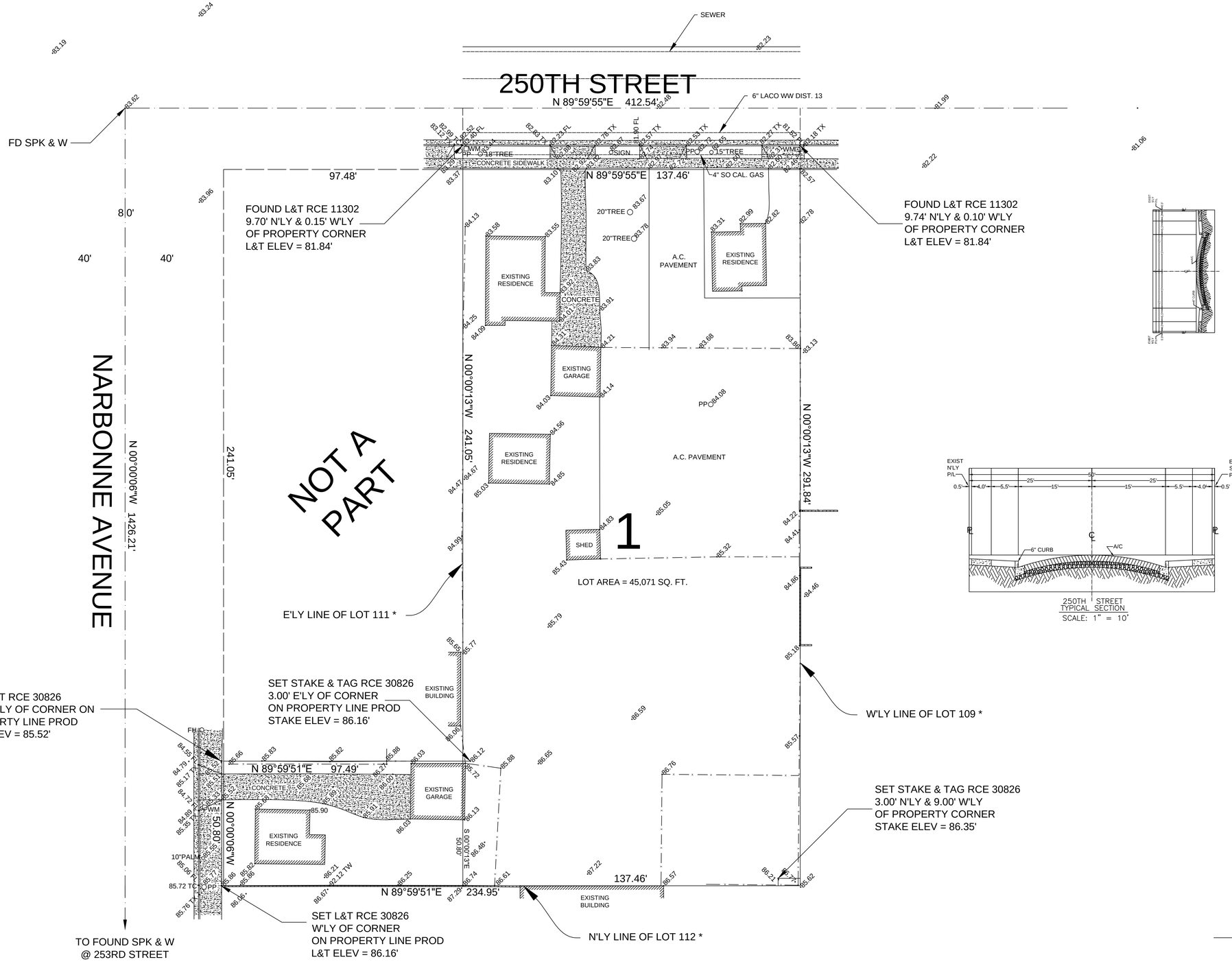
250TH & NARBONNE MULTI-USE REVISIONS
2154 250TH ST. & 25024 NARBONNE LOMITA, CA. 90717

LIVE / WORK REVISIONS

GERALD W. COMPTON AIA
1200 Artesia Blvd. Ste 300A
Hermosa Bch., California
90254 (310) 379-8222
GWC ARCHITECTS

Job No. 88715110 | Scale: 1/8"=1'-0"

A5.1
(7)



NOTE:
A TITLE POLICY WAS NOT PROVIDED TO DENN ENGINEERS AT THE TIME OF THIS SURVEY. THEREFORE, DENN ENGINEERS DOES NOT GUARANTEE THE LEGAL DESCRIPTION OF THIS PROPERTY SURVEYED NOR DOES IT REFLECT OR DELINEATE ANY EASEMENTS THAT MAY BE ON SAID PROPERTY.

SCALE 1" = 20'

DENN ENGINEERS
3914 DEL AMO BLVD, SUITE 921
TORRANCE, CA 90503 (310) 542-9433

SURVEY AND TOPOGRAPHY

FOR
CHERINE MEDAWAR
3001 CROWNVIEW DRIVE
RANCHO PALOS VERDES,
CA. 90275
(310) 951-7243

JOB ADDRESS
2154 250TH STREET &
25024 NARBONNE AVENUE
LOMITA, CA 90717

LEGAL DESCRIPTION
LOT 110 & PORTION OF LOT 111
TRACT NO. 480
M.B. 15-5
APN 7375-001-006/012

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF PROFESSIONAL LAND SURVEYORS' ACT

REGISTERED PROFESSIONAL ENGINEER
GARY J. ROEHL
No. 30826
CIVIL
STATE OF CALIFORNIA

GARY J. ROEHL R.C.E. 30826

DRAWN BY G.R. CHECK BY T.S.

DRAWN ON 8-5-2015

REVISIONS
REVISIONS

LEGEND

EXISTING BUILDING | BRICK
CONCRETE | WOOD DECK

+106.76 EXISTING ELEVATION
106 EXISTING CONTOUR
BLOCK WALL
X EXISTING FENCE

BCR	BEGINNING OF CURB RETURN
C/L	CENTERLINE
C.L.F.	CHAIN-LINK
E'LY	EASTERLY
EM	ELECTRIC METER
FD	FOUND
FE	FENCE
FF	FINISH FLOOR
FH	FIRE HYDRANT
FL	FLOW LINE
GFF	GARAGE FINISH FLOOR
GM	GAS METER
GW	GUY WIRE
L&T	LEAD AND TAG
MH	MANHOLE
N'LY	NORTHERLY
PC	PROPERTY CORNER / PROP. CORNER
PL, P/L	PROPERTY LINE / PROP. LINE
PP	POWER POLE
PPT	PARAPET
S&W	SPIKE AND WASHER
S'LY	SOUTHERLY
SPK	SPIKE
SSCO	SANITARY SEWER CLEAN OUT
SSMH	SANITARY SEWER MANHOLE
STK	STAKE
STLT	STREET LIGHT
TC	TOP OF CURB
TW	TOP OF WALL / T.O.W.
TX	TOP OF DRIVEWAY APRON
W'LY	WESTERLY
WM	WATER METER

NOTE: ALL SETBACK DIMENSIONS SHOWN ARE MEASURED TO EXTERIOR SURFACE OF BUILDINGS UNLESS OTHERWISE NOTED.

BOUNDARY MONUMENTS ARE NOT NECESSARILY SET ON PROPERTY CORNERS. PLEASE REFER TO THE NOTATION ON THE PLANS FOR OFFSET DISTANCES. IF THERE ARE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CONTACT DENN ENGINEERS FOR CLARIFICATION AT : (310) 542-9433, M-F 8:00 AM TO 5:00 PM.

SHEET C1
JOB NO. 15-368

EXHIBIT 7

To: Whom it may concern

I am requesting to convert units 3 & 4 of the existing commercial condominiums into live/work units in an effort to address the current market needs and hopefully rent or sell these spaces by providing an alternative use. When I originally applied for commercial condominiums back in 2016, my vision was to provide commercial spaces for contractor's needs (ie: electrician, plumber or general contractors that need two-car garage storage space on the second level and office space on the third level with signage and business phone number outside.)

In 2018, after submitting plans to the Fire Department, I was required to change several things, such as changing the size of the driveway. This in turn, directly affected the size of the garage. In mid-2020, I had an electrician that was interested in renting however, this was until we measured his commercial vehicle, and realized that it could not fit in the garage because of height and length. This required me to re-think the concept of the commercial condominiums.

Brick and mortar businesses have been on a down-turn spiral for the last ten years, as online businesses have increased year-over-year. In 2020, COVID 19 intensified this trend by forcing everyone to use online shopping and numerous brick and mortar businesses and franchises were forced to close. Unfortunately, this pandemic reinforced how easy it is to shop online, especially in light of the current environment making it dangerous to shop in person.

The current commercial space economic needs are live/work and manufacturing. Most people are working out of home and don't anticipate this to change for the next five to ten years.

Cherine Medawar

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission March 8, 2021

FROM: Sheri Repp Loadsman, Interim Community & Economic Development Director

SUBJECT: Discussion and Consideration of Zone Text Amendment 2021-01

PROJECT DESCRIPTION

The Community and Economic Development Department is requesting a Zone Text Amendment to permit a "Brewpub" within the Commercial Retail zone (C-R) subject to a conditional use permit.

RECOMMENDATION

Staff recommends that the Planning Commission adopt Resolution No. 2021-04 recommending that the City Council approve Zone Text Amendment No. 2021-01 and confirm the categorical exemption.

BACKGROUND

On May 2, 2017, the City Council adopted Ordinance No. 787 to define, permit and set parking standards for a "Brewpub" within the Downtown Commercial (D-C) and Commercial General (C-G) zones subject to a conditional use permit. On May 15, 2018, the City Council adopted Ordinance No. 798 to define, conditionally permit and set parking standards for a "Brewery with Tasting Room" within the Commercial-Retail zone. In 2017, Conditional Use Permit No. 302 was approved for a brewpub, known as Burnin' Daylight, to establish at 24516 Narbonne Avenue. In 2018, Conditional Use Permit No. 309 was approved for a brewery, known as Project Barley, to establish at 2308 Pacific Coast Highway.

Pursuant to Lomita Municipal Code Section 11-1.15.02(B), the following definitions are provided as follows:

> *Brewery with tasting room* shall mean a facility which produces beer, ale, and other fermented malt beverages on site and have on-site ancillary tasting rooms open to the public with beer tasting limited to those produced on site. The facility may also sell alcoholic beverages for off-site consumption limited to those alcoholic beverages produced on site.

> *Brewpub* shall mean a facility that prepares and serves food and alcoholic beverages for on-site sales and which also produces beer, ale, or other fermented malt beverages. The facility may also sell alcoholic beverages for off-site consumption limited to only those alcoholic beverages produced on site. The facility may produce up to seven thousand five hundred (7,500) barrels a year.

When Conditional Use Permit No. 309 was initially approved in 2018, the business owner of Project Barley did not intend on adding a restaurant. As such, Ordinance 787 only provided the necessary amendment to allow for a "Brewery" in the CR zone. As a result of the COVID-19 pandemic, an application was submitted to amend Conditional Use Permit No. 309 to add an associated restaurant to change the brewery use to a brewpub.

On February 8, 2021, the Planning Commission approved an Amendment to Conditional Use Permit No. 309 to add a take-out restaurant in the 1,100 square foot tenant space adjoining the 3,500 square foot brewery with tasting room. The Amendment to Conditional Use Permit No. 309 authorized the expansion of the use to incorporate an associated restaurant use and reclassifies the brewery to a brewpub at such time that the Lomita Municipal Code is amended to qualify the operations as a "Brewpub."

Analysis

Pursuant to Lomita Municipal Code Section 11-1.70.05, Zoning Amendments may be initiated by the City Council, the Planning Commission, or the Director, or by any person who files an application for a Zoning Amendment. Following the public hearing, the Commission shall make a written recommendation to the Council whether to approve, approve in modified form, or deny the proposed amendment. The recommendation shall be by resolution and shall include the reasons for the recommendation and the relationship of the proposed Zoning Amendment to the General Plan.

Proposed Ordinance Amendment

Zone Text Amendment 2021-01 would modify Lomita Municipal Code Section 11-1.48.04 as follows:

Sec. 11-1.48.04. - Uses by conditional use permit.

(A) Premises in Zone C-R may be used for the following purposes provided a conditional use permit has first been obtained pursuant to Article 70, "Zoning Ordinance Administration":

> (3) Brewery with tasting room as defined in Section 11-1.15.02(B) and pursuant to Article 56 (Alcoholic Beverages) of the Lomita Zoning Code.
>
> *(4) Brewpub as defined in Section 11-1.15.02(B) and pursuant to Article 56 (Alcoholic Beverages) of the Lomita Zoning Code.*

General Plan Analysis

The zone text amendment is consistent with the General Plan. Land Use Policy Number Seven of the General Plan states that "commercial development and employment opportunities will be promoted to maintain a sound economic base…" and with Land Use Policy Number 14 which states, "the City will promote a healthy and congenial environment for business where properly zoned". The zone text amendment will allow for the opportunity of new brewpub businesses that provide produce, prepare and serve food and beer or other fermented malt beverages for on-site and off-site sale within the main commercial corridor along Pacific Coast Highway of the City. New commercial development will help to promote a sound economic base within the City. The zone text amendment will make Brewpubs a conditionally permitted use ensuring that they are reviewed on a case-by-case basis to mitigate potential impacts.

Environmental Determination

In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, adoption of the Zone Text Amendment is exempt from CEQA in that it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. The proposed amendments will establish a brewpub as a new conditional use in the Commercial Retail zone. The proposed amendment will provide the Planning Commission with an additional conditional use to achieve the goals of the General Plan and flexibility to review requests for on-site and off-site consumption limited to only those alcoholic beverages produced on site. There will be no impacts from the zone text amendment as it only amends sections of the Zoning Code that requires Planning Commission's review therefore the Planning Commission confirms the categorical exemption.

Public Notice

Notices of this hearing dated February 26, 2021 were published in the Daily Breeze and posted at Lomita City Hall, and Lomita Park.

Recommended and Prepared By:

Sheri Repp Loadsman, Interim Community and Economic Development Director

Exhibits:
a. Draft Resolution
b. Ordinance 787
c. Ordinance 798

RESOLUTION NO. PC 2021-04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOMITA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONE TEXT AMENDMENT 2021-01, AN ORDINANCE AMENDING SECTION 11-1.48.04 TO PERMIT A "BREWPUB" WITHIN THE COMMERCIAL RETAIL (C-R) ZONE SUBJECT TO A CONDITIONAL USE PERMIT.

THE PLANNING COMMISSION OF THE CITY OF LOMITA, DOES HEREBY FIND, ORDER, AND RESOLVE AS FOLLOWS:

Section 1. Recitals and Findings.

A. On March 8, 2021, the Planning Commission held a duly noticed public hearing and accepted and considered all of the public testimony on the issue on whether to recommend approval of an ordinance amending Sections 11-1.1.48.04 to permit "Brewpub" within the Commercial Retail (C-R) zone subject to a conditional use permit.

B. That the proposed ordinance is consistent with the General Plan. Land Use Policy number seven of the General Plan states that "commercial development and employment opportunities will be promoted to maintain a sound economic base…" and with policy number 14 which states, "the City will promote a healthy and congenial environment for business where properly zoned". The zone text amendment will allow for the opportunity of new brewpub businesses that provide, produce, prepare and serve food and beer or other fermented malt beverages for on-site and off-site sale within the main commercial corridor along Pacific Coast Highway of the City. New commercial development will help to promote a sound economic base within the City. The zone text amendment will make Brewpubs a conditionally permitted use ensuring that they are reviewed on a case-by-case basis to mitigate potential impacts.

C. In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, adoption of the Zone Text Amendment is exempt from CEQA in that it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, adoption of the Zone Text Amendment is exempt from CEQA in that it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. The proposed amendments will establish a brewpub as a new conditional use in the Commercial Retail Zone. The proposed amendment will provide the Planning Commission with an additional conditional use to achieve the goals of the General Plan and flexibility to review requests for the production of beer or other fermented malt beverages for on-site and off-site sale and consumption limited to only those alcoholic beverages produced on site. There will be no impacts from the zone text amendment as it only amends sections of the Zoning Code that requires Planning Commission's review and approval and the use is similar to other permitted uses in the area. Thus, no unique environmental changes or impacts are anticipated from this change.

Section 2. Based on the foregoing, the Planning Commission of the City of Lomita hereby recommends City Council approval of the following Zone Text Amendment 2021-01 to permit for a "Brewpub" within the Commercial Retail (C-R) zone subject to a conditional use permit:

Section 3. Section 11-1.48.04(A)(3) in Title XI of the Lomita Municipal Code is amended by adding *"Brewpub as defined in Section 11-1.15.02(B) and pursuant to Article 56 (Alcoholic*

Beverages) of the Lomita Zoning Code" to the alphabetical list of uses and renumbering the ensuing land uses accordingly.

PASSED and ADOPTED by the Planning Commission of the City of Lomita on this 9th day of April 2018, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

_____
Steven Cammarata, Chair

ATTEST:

_____
Sheri Repp Loadsman
Interim Community and Economic Development Director

Any action to challenge the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure Section 1094.6.

ORDINANCE NO. 787

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMITA AMENDING SEC. 11-1.15.02(B), SEC. 11-1.49.04(2), SEC. 11-1.45.05(6), AND SEC. 11-1.66.03 TO DEFINE, PERMIT, AND SET PARKING STANDARDS FOR A "BREWPUB" WITHIN THE DOWNTOWN COMMERCIAL (D-C) AND COMMERCIAL GENERAL (C-G) ZONE SUBJECT TO A CONDITIONAL USE PERMIT AND DELETING SECTION 11-1.56.04 (CONSUMPTION) IN ITS ENTIRETY.

(New text indicated with underlining)

Section 1. Recitals.

A. On February 13, 2017, the Planning Commission held a duly noticed public hearing on Zone Text Amendment No. 2017-01 where public testimony was accepted on the item and recommended City Council approval.

B. The City Council finds that the ordinance is consistent with the General Plan. Land Use Policy number seven of the General Plan states that *"commercial development and employment opportunities will be promoted to maintain a sound economic base..."* and with policy number 14 which states, *"the City will promote a healthy and congenial environment for business where properly zoned"*. The zone text amendment will allow for the opportunity of new restaurant/light manufacturing businesses within the main commercial corridors of the City. New commercial development will help to promote a sound economic base within the City. The zone text amendment will make Brewpubs a conditionally permitted use ensuring that they are reviewed on a case-by-case basis to mitigate potential impacts.

C. In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, adoption of the Zone Text Amendment is exempt from CEQA in that it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. The proposed amendments will provide a definition for a "brewpub", establish a brewpub as a new conditional use in the Downtown Commercial and Commercial General Zones, and delete a section restricting the sale of packaged alcohol at a place of on-site consumption. The proposed amendments will provide the Planning Commission with an additional conditional use to achieve the goals of the General Plan and flexibility to review requests for on-site and off-site consumption of alcohol. There will be no impacts from the zone text amendment as it only amends sections of the Zoning Code that requires Planning Commission's review therefore the City Council confirms the categorical exemption.

Section 2. The alphabetical list of uses in Section 11-1.15.02 of Title XI of the Lomita Municipal Code is amended to add the following new definition to read as follows:

Section 11-1.15.02(B).

Brewpub shall mean a facility that prepares and serves food and alcoholic beverages for on-site sales and which also produces beer, ale, or other fermented malt beverages. The facility may also sell alcoholic beverages for off-site consumption limited to only those alcoholic beverages produced on-site. The facility may produce up to 7,500 barrels a year.

Section 3. Section 11-1.45.05(6). in Title XI of the Lomita Municipal Code is amended by adding "*Brewpub as defined in Section 11-1.15.02(B) and pursuant to Article 56 (Alcoholic Beverages) of the Lomita Zoning Code*" and renumbering the ensuing land uses accordingly.

Section 4. Section 11-1.49.04(2). in Title XI of the Lomita Municipal Code is amended by adding "*Brewpub as defined in Section 11-1.15.02(B) and pursuant to Article 56 (Alcoholic Beverages) of the Lomita Zoning Code*" and renumbering the ensuing land uses accordingly.

Section 5. Section 11-1.56.04 in Title XI of the Lomita Municipal Code is deleted in its entirety.

Section 6. Section 11-1.66.03(C) of Title XI of the Lomita Municipal Code is hereby amended to read as follows:

Sec. 11-1.66.03 Parking requirements.

Places for Public Assembly	
Brewpub as defined in Section 11-1.15.02(B)	*One (1) parking space per four hundred (400) square feet of brewery, kitchen, office and miscellaneous floor area, plus one (1) parking space for each one hundred fifty (150) square feet of dining area including outdoor dining area; and one (1) parking space for each three hundred (300) square feet of retail floor area.*
	The planning commission may consider spaces in a municipal parking lot which is within five hundred (500) feet of the subject property for part of the parking requirement.

Section 7. In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, adoption of this ordinance is exempt from CEQA in that

it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. The proposed amendments will provide a definition for a "brewpub", establish a brewpub as a new conditional use in the Downtown commercial and Commercial General Zones, and delete a section restricting the sale of packaged alcohol at a place of on-site consumption. The proposed amendments will provide the Planning Commission with an additional conditional use to achieve the goals of the General Plan and flexibility to review requests for on-site and off-site consumption of alcohol. There will be no impacts from the ordinance as it only amends sections of the Zoning Code that requires Planning Commission's review therefore the City Council confirms the categorical exemption.

Section 8. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part hereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council of the City of Lomita hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 9. Effective Date. This ordinance shall take effect thirty (30) days after the date of its passage; and prior to fifteen (15) days after its passage, the City Clerk shall cause a copy of this ordinance to be published in accordance with the provisions of the law. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED, this 2nd day of May, 2017.

Mark Waronek
Mayor

ATTEST:

Sandra Medina,
City Clerk

I hereby certify the foregoing ordinance was duly adopted by the City Council of the City of Lomita at a regular meeting held on the 2nd day of May, 2017 by the following vote:

AYES: Council Members: Traina, Gazeley, Sanchez, Mayor Pro Tem Savidan, and Mayor Waronek

NOES: None

ABSENT: None

Sandra Medina

Sandra Medina,
City Clerk

Within 30 days of the date of this action, in accordance with LMC §11-1.70.16, any person dissatisfied with the action of, or the failure to act by, the Commission may file with the City Clerk an appeal from such action upon depositing with said Clerk an amount specified by resolution of the City Council. Any action to challenge the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Code of Civil Procedure. Persons wishing to challenge the City's final action in Superior Court may be limited to raising only those issues they or someone else raised the public hearing or in written correspondence delivered to the City at or before the public hearing.

ORDINANCE NO. 798

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMITA AMENDING SECTIONS 11-1.15.02(B), 11-1.1.48.04(A), AND 11-1.66.03(C) TO DEFINE, CONDITIONALLY PERMIT, AND SET PARKING STANDARDS FOR A BREWERY WITH TASTING ROOM WITHIN THE CR-COMMECIAL RETIAL ZONE.

Section 1. Recitals.

A. On April 9, 2018, the Planning Commission held a duly noticed public hearing on Zone Text Amendment No. 2018-02 where public testimony was accepted on the item and recommended City Council approval.

B. The City Council finds that the proposed ordinance is consistent with the General Plan. Land Use Policy number seven of the General Plan states that "*commercial development and employment opportunities will be promoted to maintain a sound economic base…*" and policy number 14 states, "*the City will promote a healthy and congenial environment for business where properly zoned*". The zone text amendment will allow for the opportunity of new light manufacturing businesses with tasting rooms within the main commercial corridors of the City. New commercial development will help to promote a sound economic base within the City. The zone text amendment will make Breweries a conditionally permitted use ensuring that they are reviewed on a case-by-case basis to mitigate potential impacts.

C. In accordance with Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines, adoption of the Zone Text Amendment is exempt from CEQA in that it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. The proposed amendments will provide a definition for a "brewery with tasting room"; establish a it as a new conditional use in the Commercial Retail zone and set parking standards for the new use. The proposed amendments will provide the Planning Commission with an additional conditional use to achieve the goals of the General Plan and flexibility to review requests for on-site and off-site consumption of alcohol. There will be no impacts from the zone text amendment as it only amends sections of the Zoning Code that requires Planning Commission's review and approval therefore the City Council confirms the categorical exemption.

Section 2. The alphabetical list of uses in Section 11-1.15.02 of Title XI of the Lomita Municipal Code is amended to add the following new definition to read as follows:

Section 11-1.15.02(B).

Brewery with Tasting Room shall mean a facility which produces beer, ale, and other fermented malt beverages on-site and have onsite ancillary tasting rooms open to the public with beer tasting limited to those produced on-site. The facility may also sell alcoholic beverages for off-site consumption limited to those alcoholic beverages produces on-site.

Section 3. Section 11-1.48.04(A)(3) in Title XI of the Lomita Municipal Code is amended by adding *"Brewery with Tasting Room as defined in Section 11-1.15.02(B) and pursuant to Article 56 (Alcoholic Beverages) of the Lomita Zoning Code"* to the alphabetical list of uses and renumbering the ensuing land uses accordingly.

Section 4. Section 11-1.66.03(C) of Title XI of the Lomita Municipal Code is hereby amended to read as follows:

Sec. 11-1.66.03 Parking requirements.

Places for Public Assembly	
Brewery with Tasting Room and Brewpub as defined in Section 11-1.15.02(B)	One (1) parking space per four hundred (400) square feet of brewery, *tasting area*, kitchen, office and miscellaneous floor area, plus one (1) parking space for each one hundred fifty (150) square feet of dining area including outdoor dining area; and one (1) parking space for each three hundred (300) square feet of retail floor area.

Section 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part hereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council of the City of Lomita hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 6. Effective Date. This ordinance shall take effect thirty (30) days after the date of its passage; and prior to fifteen (15) days after its passage, the City Clerk shall cause a copy of this ordinance to be published in accordance with the provisions of the law. The City Clerk shall certify the adoption of this ordinance.

PASSED, APPROVED AND ADOPTED, this 15th day of May, 2018.

Michael Savidan,
Mayor

ATTEST:

Sandra Medina, MMC
City Clerk

I hereby certify the foregoing ordinance was duly adopted by the City Council of the City of Lomita at a regular meeting held on the 15th day of May, 2018 by the following vote:

AYES: Council Member Gazeley, Traina, Waronek, Mayor Pro Tem Sanchez, and Mayor Savidan

NOES: None

ABSENT: None

Sandra M. Medina

Sandra M. Medina, MMC
City Clerk

CITY OF LOMITA
PLANNING COMMISSION REPORT

TO: Planning Commission March 8, 2021

FROM: Sheri Repp Loadsman, Interim Community & Economic Development Director

SUBJECT: Housing Related Issues

RECOMMENDATION

Staff recommends that the Planning Commission receive an update on new state housing mandates in preparation of the 6th Cycle Housing Element Update.

BACKGROUND

The Housing Element is one of seven required Elements of the General Plan. General plans serve as the local government's "blueprint" for how the city will grow and develop. The purpose of the Housing Element is to adequately plan to meet the housing needs of everyone in the community. Housing Elements must be updated every eight years.

Housing Element law, which was enacted in 1969, mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. The California Department of Housing and Community Development (HCD) reviews every local government's housing element to determine whether it complies with state law and then submits written findings back to each local government. HCD's approval is required before a local government can adopt its housing element as part of its overall General Plan.

The Regional Housing Needs Assessment (RHNA), which is required by state law, is a method of allocating housing units to jurisdictions throughout the State. Using State population data, HCD mandates that a certain amount of housing units be constructed within all regional planning areas throughout the State. The Metropolitan Planning Organization (MPO) under which Lomita is subject to is Southern California Association of Governments (SCAG). SCAG, in collaboration with HCD, calculated the number of existing and projected housing units that must be constructed within the six counties and 191 cities in Southern California. During the fifth housing cycle, SCAG was responsible for allocating 412,000 units throughout the region. Lomita was assigned to construct 47 housing units. During the sixth housing cycle, HCD has mandated SCAG to allocate 1,344,740 units throughout the region. Under the SCAG 6th Cycle Proposed Final RHNA

Allocation Plan (Exhibit 1), the City is required to provide 829 housing units (increased from the draft allocation of 827 housing units).

Final RHNA Allocations

Income Level		4th Cycle RHNA Allocation by Income Level	5th Cycle RHNA Allocation by Income Level	6th Cycle RHNA Allocation by Income Level
Very Low	Deed Restricted	87	12	239
	Non-Deed Restricted			
Low	Deed Restricted	54	7	124
	Non-Deed Restricted			
Moderate	Deed Restricted	58	8	128
	Non-Deed Restricted			
Above Moderate		147	20	338
Total RHNA		346	47	829

New Legislation:

In 2017-2019, the California Legislature substantially amended housing and planning laws. Many of these bills limit local discretion and impose tough mandates on the City. In the 6th Cycle Housing Element Update, cities face challenges in complying with Housing Element Law. The following is a summary of new legislation that must be addressed in the 6th Cycle Housing Element Update.

Suitable sites: As part of preparation of the Housing Element update, jurisdictions are required to identify an inventory of suitable sites that can accommodate the allocation. The 2018 legislative session brought new restrictions to the criteria applied to suitable sites. Staff is beginning to analyze the possible impacts of the new suitable sites criteria in the context of the RHNA process to understand potential implications for Lomita. The Department of Housing and Community Development prepared the Housing Element Site Inventory Guidebook to provide detailed information on development of the site inventory analysis for the 6th Cycle Housing Element Update (Exhibit 2)

Affirmatively Furthering Fair Housing (AFFH): AB 686 adds an AFFH analysis to the Housing Element for plans that are due beginning in 2021. "Affirmatively furthering fair housing" means taking meaningful actions that overcome patterns of segregation and foster inclusive communities from barriers that restrict access to opportunities. The Housing Element's AFFH analysis must include a required examination of issues such as segregation and resident displacement, as well as the required identification of fair housing goals. The Department of Housing and Community Development prepared a memorandum dated April 23, 2020 summarizing AB686 Requirements (Exhibit 3).

Accessory Dwelling Units: AB 671 requires cities to include a plan that incentivizes and promotes the creation of Accessory Dwelling Units (ADUs), formerly known as Second Dwelling Units, that can be offered at affordable rent for very low, low-, or moderate-income households in its housing element. HCD is also to develop a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of ADUs with affordable rent. Other state bills that were adopted in the 2019 legislative session were intended to make it easier to construct ADUs. An Ordinance addressing state law with respect to ADUs will be presented to the Commission later this year. The Department of Housing and Community Development prepared a memorandum dated January 10, 2020 summarizing Accessory Dwelling Unit requirements (Exhibit 4). An Accessory Dwelling Handbook (September 2020) provides a comprehensive guide for building ADU's (Exhibit 5).

Enforcement and Penalties: The State adopted legislation that penalizes cities for not having a compliant Housing Element or adopting policies that bring the Housing Element out of compliance. The State has expanded its enforcement role. Cities with compliant housing elements get preference in applying for housing and infrastructure programs. Cities that do not comply are ineligible for certain programs. The Attorney General, through court order or judgement, can direct cities to bring their Housing Elements into compliance. Courts can impose fines, and failure to pay fines, can result in State Controller intercepting any available state and local funds. If cities do not meet their RHNA, certain affordable housing developments must be streamlined and are subject to a ministerial approval process.

Lomita 5th Cycle Housing Element Accomplishments

The Housing Element of the Lomita General Plan provides for an implementation plan of programs and action the City will pursue to meet the community's needs for housing for the 5th cycle RHNA (2013-2021). The following chart provides a summary of the residential units achieved completed from 2013 through 2019.

ANNUAL HOUSING ELEMENT PROGRESS REPORT
Reporting Year 2019

Income Level		RHNA Allocation by Income Level	Total Units from 2013-2019	Total Remaining RHNA by Income Level
Very Low	Deed Restricted	12		12
	Non-Deed Restricted			
Low	Deed Restricted	7		
	Non-Deed Restricted		9	
Moderate	Deed Restricted	8		
	Non-Deed Restricted		35	
Above Moderate		20	61	
Total RHNA		47		
Total Units			105	12

The City has generally been successful in meeting past RHNA allocations except in the very low-income category. The challenge with the 6th Cycle Housing Element Update will be planning for

a minimum of 829 housing units and establishing programs for achieving the targeted affordability levels. During the process of identifying suitable sites, there will be an attempt to identify additional sites to allow for a greater likelihood of achieving compliance and obtaining approval from HCD. The City will be engaging the community to help determine areas that can be zoned for residential densities needed to achieve the RHNA allocation. As Lomita is substantially a built-out community, opportunities may include larger residential properties, underperforming commercial areas and incentives to promote development in districts already identified for mixed-use and higher density residential. Working collaboratively with the community and elected and appointed officials, the Housing Element update process will seek to identify incentives and programs to attract quality development for all segments of the community. There are many public interest groups that are adding to the discussion. Several representative articles are included as exhibits to assist the Planning Commission in understanding the broad range of stakeholder opinions.

The City has retained Dudek as our consultant to prepare the 6th Cycle Housing Element Update. In the upcoming months, there will be workshops, and public hearings to strategically address the development of the 6th Cycle Housing Element Update. The initial public outreach involves a community survey that is available on the City website (Lomita.com). The Planning Commission and community are invited to complete the survey to assist in identifying goals to meet the collection vision for Lomita. A public workshop will be scheduled in April 2021 with public hearings to follow in the upcoming months. The schedule seeks to complete the public hearing process with the Planning Commission and City Council by the October 2021 deadline to allow submittal of the 6th Cycle Housing Element Update to HCD for final approval.

The purpose of this report is to inform the Planning Commission and community on the 6th Cycle Housing Element Update process. It is evident that state mandates are getting tough with respect to getting cities to increase housing production within their jurisdictions. The various exhibits provide an opportunity to gain more understanding of the laws and framework in which Lomita will proceed with the 6th cycle Housing Element Update and long-range planning that will shape the future of the community.

Exhibits (Provided by hyperlink to websites)

1. SCAG 6th Cycle Proposed Final RHNA Allocation Plan
2. Housing Element Site Inventory Guidebook: Government Code Section 65583.2
3. AB 686 Summary of Requirements in Housing Element Law Government Code Section 8899.50, 65583(c)(5), 65583(c)(10), 65583.2(a)
4. Local Agency Accessory Dwelling Units Chapter 653, Statutes of 2019 (Senate Bill 13) Chapter 655, Statutes of 2019 (Assembly Bill 68) Chapter 657, Statutes of 2019 (Assembly Bill 587) Chapter 178, Statutes of 2019 (Assembly Bill 670) Chapter 658, Statutes of 2019 (Assembly Bill 671) Chapter 659, Statutes of 2019 (Assembly Bill 881)
5. HCD Accessory Dwelling Handbook (September 2020)
6. UCLA School of Public Affairs: "I Would, If Only I Could" How Cities Can Use California's Housing Element to Overcome Neighborhood Resistance to New Housing (could not be printed)
7. Abundant Housing LA letter to Mayor Gazeley dated November 30, 2020.
8. Abundant Housing LA - Requirements and Best Practices for Housing Element Updates: The Site Inventory (August 18, 2020)

SCAG 6TH CYCLE PROPOSED FINAL RHNA ALLOCATION

2/5/21

ALLOCATION BY COUNTY

	Total	Very-low income	Low income	Moderate income	Above moderate income
Imperial	15,993	4,671	2,357	2,198	6,767
Los Angeles	812,060	217,273	123,022	131,381	340,384
Orange	183,861	46,416	29,242	32,546	75,657
Riverside	167,351	41,995	26,473	29,167	69,716
San Bernardino	138,110	35,667	21,903	24,140	56,400
Ventura	24,452	5,774	3,810	4,525	10,343
TOTAL	1,341,827	351,796	206,807	223,957	559,267

ALLOCATION BY Regional Early Action Planning (REAP) SUBREGIONS

REAP Subregion	Total	Very-low income	Low income	Moderate income	Above moderate income
CVAG	31,619	6,204	4,664	5,561	15,190
Gateway Cities COG	71,678	20,029	10,391	10,822	30,436
Imperial County	15,993	4,671	2,357	2,198	6,767
Las Virgenes-Malibu COG	933	362	199	183	189
Los Angeles City	456,643	115,978	68,743	75,091	196,831
North Los Angeles County	15,663	4,001	2,129	2,332	7,201
Orange County COG	183,861	46,416	29,242	32,546	75,657
San Bernardino COG/SBCTA	138,110	35,667	21,903	24,140	56,400
San Fernando Valley COG	34,023	9,850	5,588	5,614	12,971
San Gabriel Valley COG	89,616	25,208	13,400	14,074	36,934
South Bay Cities COG	34,179	10,221	5,236	5,539	13,183
Uninc. Los Angeles County	90,052	25,648	13,691	14,180	36,533
Uninc. Riverside County	40,647	10,371	6,627	7,347	16,302
Ventura COG	24,452	5,774	3,810	4,525	10,343
Westside Cities COG	19,273	5,976	3,645	3,546	6,106
Western Riverside COG	95,085	25,420	15,182	16,259	38,224

ALLOCATION BY LOCAL JURISDICTION

County	Jurisdiction	Total	Very-low income	Low income	Moderate income	Above-moderate income
Imperial	Brawley city	1426	399	210	202	615
Imperial	Calexico city	4868	1279	655	614	2320
Imperial	Calipatria city	151	36	21	16	78
Imperial	El Centro city	3442	1001	490	462	1489
Imperial	Holtville city	171	41	33	26	71

ALLOCATION BY LOCAL JURISDICTION

County	Jurisdiction	Total	Very-low income	Low income	Moderate income	Above-moderate income
Imperial	Imperial city	1601	704	346	294	257
Imperial	Unincorporated Imp	4301	1203	596	580	1922
Imperial	Westmorland city	33	8	6	4	15
Los Angeles	Agoura Hills city	318	127	72	55	64
Los Angeles	Alhambra city	6825	1774	1036	1079	2936
Los Angeles	Arcadia city	3214	1102	570	605	937
Los Angeles	Artesia city	1069	312	168	128	461
Los Angeles	Avalon city	27	8	5	3	11
Los Angeles	Azusa city	2651	760	368	382	1141
Los Angeles	Baldwin Park city	2001	576	275	263	887
Los Angeles	Bell city	229	43	24	29	133
Los Angeles	Bell Gardens city	503	100	29	72	302
Los Angeles	Bellflower city	3735	1015	488	553	1679
Los Angeles	Beverly Hills city	3104	1008	680	602	814
Los Angeles	Bradbury city	41	16	9	9	7
Los Angeles	Burbank city	8772	2553	1418	1409	3392
Los Angeles	Calabasas city	354	132	71	70	81
Los Angeles	Carson city	5618	1770	913	875	2060
Los Angeles	Cerritos city	1908	679	345	332	552
Los Angeles	Claremont city	1711	556	310	297	548
Los Angeles	Commerce city	247	55	22	39	131
Los Angeles	Compton city	1004	235	121	131	517
Los Angeles	Covina city	1910	614	268	281	747
Los Angeles	Cudahy city	393	80	36	53	224
Los Angeles	Culver City city	3341	1108	604	560	1069
Los Angeles	Diamond Bar city	2521	844	434	437	806
Los Angeles	Downey city	6525	2079	946	915	2585
Los Angeles	Duarte city	888	269	145	137	337
Los Angeles	El Monte city	8502	1797	853	1233	4619
Los Angeles	El Segundo city	492	189	88	84	131
Los Angeles	Gardena city	5735	1485	761	894	2595
Los Angeles	Glendale city	13425	3439	2163	2249	5574
Los Angeles	Glendora city	2276	735	386	388	767
Los Angeles	Hawaiian Gardens ci	331	61	44	46	180
Los Angeles	Hawthorne city	1734	445	204	249	836
Los Angeles	Hermosa Beach city	558	232	127	106	93
Los Angeles	Hidden Hills city	40	17	8	9	6
Los Angeles	Huntington Park city	1605	264	196	243	902
Los Angeles	Industry city	17	6	4	2	5
Los Angeles	Inglewood city	7439	1813	955	1112	3559
Los Angeles	Irwindale city	119	36	11	17	55
Los Angeles	La Cañada Flintridge	612	252	135	139	86

ALLOCATION BY LOCAL JURISDICTION

County	Jurisdiction	Total	Very-low income	Low income	Moderate income	Above-moderate income
Los Angeles	La Habra Heights cit	172	78	35	31	28
Los Angeles	La Mirada city	1962	634	342	320	666
Los Angeles	La Puente city	1929	544	275	275	835
Los Angeles	La Verne city	1346	414	239	223	470
Los Angeles	Lakewood city	3922	1296	637	653	1336
Los Angeles	Lancaster city	9023	2224	1194	1328	4277
Los Angeles	Lawndale city	2497	732	311	371	1083
Los Angeles	Lomita city	829	239	124	128	338
Los Angeles	Long Beach city	26502	7141	4047	4158	11156
Los Angeles	Los Angeles city	456643	115978	68743	75091	196831
Los Angeles	Lynwood city	1558	377	139	235	807
Los Angeles	Malibu city	79	28	19	17	15
Los Angeles	Manhattan Beach ci	774	322	165	155	132
Los Angeles	Maywood city	365	55	47	55	208
Los Angeles	Monrovia city	1670	519	262	254	635
Los Angeles	Montebello city	5186	1314	707	777	2388
Los Angeles	Monterey Park city	5257	1324	822	848	2263
Los Angeles	Norwalk city	5034	1546	759	658	2071
Los Angeles	Palmdale city	6640	1777	935	1004	2924
Los Angeles	Palos Verdes Estates	199	82	44	48	25
Los Angeles	Paramount city	364	92	43	48	181
Los Angeles	Pasadena city	9429	2747	1662	1565	3455
Los Angeles	Pico Rivera city	1024	299	146	149	430
Los Angeles	Pomona city	10558	2799	1339	1510	4910
Los Angeles	Rancho Palos Verde	639	253	139	125	122
Los Angeles	Redondo Beach city	2490	936	508	490	556
Los Angeles	Rolling Hills city	45	20	9	11	5
Los Angeles	Rolling Hills Estates	191	82	42	38	29
Los Angeles	Rosemead city	4612	1154	638	686	2134
Los Angeles	San Dimas city	1248	384	220	206	438
Los Angeles	San Fernando city	1795	461	273	284	777
Los Angeles	San Gabriel city	3023	846	415	466	1296
Los Angeles	San Marino city	397	149	91	91	66
Los Angeles	Santa Clarita city	10031	3397	1734	1672	3228
Los Angeles	Santa Fe Springs city	952	253	159	152	388
Los Angeles	Santa Monica city	8895	2794	1672	1702	2727
Los Angeles	Sierra Madre city	204	79	39	35	51
Los Angeles	Signal Hill city	517	161	78	90	188
Los Angeles	South El Monte city	577	131	64	70	312
Los Angeles	South Gate city	8282	2136	994	1173	3979
Los Angeles	South Pasadena city	2067	757	398	334	578
Los Angeles	Temple City city	2186	630	350	369	837

ALLOCATION BY LOCAL JURISDICTION

County	Jurisdiction	Total	Very-low income	Low income	Moderate income	Above-moderate income
Los Angeles	Torrance city	4939	1621	846	853	1619
Los Angeles	Unincorporated Los	90052	25648	13691	14180	36533
Los Angeles	Vernon city	9	5	4	0	0
Los Angeles	Walnut city	1293	427	225	231	410
Los Angeles	West Covina city	5346	1653	850	865	1978
Los Angeles	West Hollywood city	3933	1066	689	682	1496
Los Angeles	Westlake Village city	142	58	29	32	23
Los Angeles	Whittier city	3439	1025	537	556	1321
Orange	Aliso Viejo city	1195	390	214	205	386
Orange	Anaheim city	17453	3767	2397	2945	8344
Orange	Brea city	2365	669	393	403	900
Orange	Buena Park city	8919	2119	1343	1573	3884
Orange	Costa Mesa city	11760	2919	1794	2088	4959
Orange	Cypress city	3936	1150	657	623	1506
Orange	Dana Point city	530	147	84	101	198
Orange	Fountain Valley city	4839	1307	786	834	1912
Orange	Fullerton city	13209	3198	1989	2271	5751
Orange	Garden Grove city	19168	4166	2801	3211	8990
Orange	Huntington Beach ci	13368	3661	2184	2308	5215
Orange	Irvine city	23610	6396	4235	4308	8671
Orange	La Habra city	804	192	116	130	366
Orange	La Palma city	802	224	140	137	301
Orange	Laguna Beach city	394	118	80	79	117
Orange	Laguna Hills city	1985	568	353	354	710
Orange	Laguna Niguel city	1207	348	202	223	434
Orange	Laguna Woods city	997	127	136	192	542
Orange	Lake Forest city	3236	956	543	559	1178
Orange	Los Alamitos city	769	194	119	145	311
Orange	Mission Viejo city	2217	674	401	397	745
Orange	Newport Beach city	4845	1456	930	1050	1409
Orange	Orange city	3936	1067	604	677	1588
Orange	Placentia city	4374	1231	680	770	1693
Orange	Rancho Santa Marga	680	209	120	125	226
Orange	San Clemente city	982	282	164	188	348
Orange	San Juan Capistrano	1054	270	173	183	428
Orange	Santa Ana city	3095	586	362	523	1624
Orange	Seal Beach city	1243	258	201	239	545
Orange	Stanton city	1231	165	145	231	690
Orange	Tustin city	6782	1724	1046	1132	2880
Orange	Unincorporated Ora	10406	3139	1866	2040	3361
Orange	Villa Park city	296	93	60	61	82
Orange	Westminster city	9759	1881	1473	1784	4621

ALLOCATION BY LOCAL JURISDICTION

County	Jurisdiction	Total	Very-low income	Low income	Moderate income	Above-moderate income
Orange	Yorba Linda city	2415	765	451	457	742
Riverside	Banning city	1673	317	193	280	883
Riverside	Beaumont city	4210	1229	721	723	1537
Riverside	Blythe city	494	82	71	96	245
Riverside	Calimesa city	2017	495	275	379	868
Riverside	Canyon Lake city	129	43	24	24	38
Riverside	Cathedral City city	2549	540	353	457	1199
Riverside	Coachella city	7886	1033	999	1367	4487
Riverside	Corona city	6088	1752	1040	1096	2200
Riverside	Desert Hot Springs c	3873	569	535	688	2081
Riverside	Eastvale City	3028	1145	672	635	576
Riverside	Hemet city	6466	812	732	1174	3748
Riverside	Indian Wells city	382	117	81	91	93
Riverside	Indio city	7812	1793	1170	1315	3534
Riverside	Jurupa Valley City	4497	1207	749	731	1810
Riverside	La Quinta city	1530	420	269	297	544
Riverside	Lake Elsinore city	6681	1878	1099	1134	2570
Riverside	Menifee city	6609	1761	1051	1106	2691
Riverside	Moreno Valley city	13627	3779	2051	2165	5632
Riverside	Murrieta city	3043	1009	583	545	906
Riverside	Norco city	454	145	85	82	142
Riverside	Palm Desert city	2790	675	460	461	1194
Riverside	Palm Springs city	2557	545	408	461	1143
Riverside	Perris city	7805	2030	1127	1274	3374
Riverside	Rancho Mirage city	1746	430	318	328	670
Riverside	Riverside city	18458	4861	3064	3139	7394
Riverside	San Jacinto city	3392	800	465	560	1567
Riverside	Temecula city	4193	1359	801	778	1255
Riverside	Unincorporated Rive	40647	10371	6627	7347	16302
Riverside	Wildomar city	2715	798	450	434	1033
San Bernardino	Adelanto city	3763	394	566	651	2152
San Bernardino	Apple Valley town	4290	1086	600	747	1857
San Bernardino	Barstow city	1520	172	228	300	820
San Bernardino	Big Bear Lake city	212	50	33	37	92
San Bernardino	Chino city	6978	2113	1284	1203	2378
San Bernardino	Chino Hills city	3729	1388	821	789	731
San Bernardino	Colton city	5434	1318	668	906	2542
San Bernardino	Fontana city	17519	5109	2950	3035	6425
San Bernardino	Grand Terrace city	630	189	92	106	243
San Bernardino	Hesperia city	8155	1921	1231	1409	3594
San Bernardino	Highland city	2513	619	409	471	1014
San Bernardino	Loma Linda city	2051	523	311	352	865

ALLOCATION BY LOCAL JURISDICTION

County	Jurisdiction	Total	Very-low income	Low income	Moderate income	Above-moderate income
San Bernardino	Montclair city	2593	698	383	399	1113
San Bernardino	Needles city	87	10	11	16	50
San Bernardino	Ontario city	20854	5640	3286	3329	8599
San Bernardino	Rancho Cucamonga	10525	3245	1920	2038	3322
San Bernardino	Redlands city	3516	967	615	652	1282
San Bernardino	Rialto city	8272	2218	1206	1371	3477
San Bernardino	San Bernardino city	8123	1415	1097	1448	4163
San Bernardino	Twentynine Palms ci	1047	231	127	185	504
San Bernardino	Unincorporated San	8832	2179	1360	1523	3770
San Bernardino	Upland city	5686	1584	959	1013	2130
San Bernardino	Victorville city	8165	1735	1136	1504	3790
San Bernardino	Yucaipa city	2866	708	493	511	1154
San Bernardino	Yucca Valley town	750	155	117	145	333
Ventura	Camarillo city	1376	353	244	271	508
Ventura	Fillmore city	415	73	61	72	209
Ventura	Moorpark city	1289	377	233	245	434
Ventura	Ojai city	53	13	9	10	21
Ventura	Oxnard city	8549	1840	1071	1538	4100
Ventura	Port Hueneme city	125	26	16	18	65
Ventura	San Buenaventura (V	5312	1187	865	950	2310
Ventura	Santa Paula city	657	102	99	121	335
Ventura	Simi Valley city	2793	749	493	518	1033
Ventura	Thousand Oaks city	2621	735	494	532	860
Ventura	Unincorporated Ven	1262	319	225	250	468

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
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Exhibit 2

June 10, 2020

MEMORANDUM FOR: Planning Directors and Interested Parties

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

SUBJECT: **Housing Element Site Inventory Guidebook**
Government Code Section 65583.2

The housing element of the general plan must include an inventory of land suitable and available for residential development to meet the locality's regional housing need by income level. The purpose of this Guidebook is to assist jurisdictions and interested parties with the development of the site inventory analysis for the 6th Housing Element Planning Cycle and identify changes to the law as a result of Chapter 375, Statutes of 2017 (AB 1397), Chapter 958, Statutes of 2018 (AB 686), Chapter 664, Statutes of 2019 (AB 1486), and Chapter 667, Statutes of 2019 (SB 6). The Guidebook should be used in conjunction with the site inventory form developed by the California Department of Housing and Community Development (HCD). These laws introduced changes to the following components of the site inventory:

- Design and development of the site inventory (SB 6, 2019)
- Requirements in the site inventory table (AB 1397, 2017 AB 1486, 2019)
- Capacity calculation (AB 1397, 2017)
- Infrastructure requirements (AB 1397, 2017)
- Suitability of nonvacant sites (AB 1397, 2017)
- Size of site requirements (AB 1397, 2017)
- Locational requirements of identified sites (AB 686, 2018)
- Sites identified in previous housing elements (AB 1397, 2017)
- Nonvacant site replacement unit requirements (AB 1397, 2017)
- Rezone program requirements (AB 1397, 2017)

The workbook is divided into five components: (Part A) identification of sites; (Part B) sites to accommodate the lower income RHNA; (Part C) capacity analysis; (Part D) non-vacant sites; and (Part E) determination of adequate sites.

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

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BACKGROUND AND PURPOSE

Housing Element Site Inventory Requirements

Scarcity of land with adequately zoned capacity is a significant contributor to increased land prices and housing development costs. A lack of adequately zoned sites exacerbates the already significant deficit of housing affordable to lower income households. An effective housing element provides the necessary conditions for conserving, preserving and producing an adequate supply of housing affordable at a variety of income levels and provides a vehicle for establishing and updating housing and land-use strategies to reflect changing needs, resources, and conditions. Among other things, the housing element establishes a jurisdiction's strategy to plan for and facilitate the development of housing over the five-to-eight year planning period by providing an inventory of land adequately zoned or planned to be zoned for housing and programs to implement the strategy.

The purpose of the housing element's site inventory is to identify and analyze specific land (sites) that is available and suitable for residential development in order to determine the jurisdiction's capacity to accommodate residential development and reconcile that capacity with the jurisdiction's Regional Housing Need Allocation (RHNA). The available and suitable sites are referred to as "adequate sites" throughout this Guidebook. The site inventory enables the jurisdiction to determine whether there are sufficient adequate sites to accommodate the RHNA by income category. A site inventory and analysis will determine whether program actions must be adopted to "make sites available" with appropriate zoning, development standards, and infrastructure capacity to accommodate the new development need.

Sites are suitable for residential development if zoned appropriately and available for residential use during the planning period. If the inventory demonstrates that there are insufficient sites to accommodate the RHNA for each income category, the inventory must identify sites for rezoning to be included in a housing element program to identify and make available additional sites to accommodate those housing needs early within the planning period.

Other characteristics to consider when evaluating the appropriateness of sites include physical features (e.g., size and shape of the site, improvements currently on the site, slope instability or erosion, or environmental and pollution considerations), location (e.g., proximity to and access to infrastructure, transit, job centers, and public or community services), competitiveness for affordable housing funding (e.g., Low Income Housing Tax Credit scoring criteria), and likelihood or interest in development due to access to opportunities such as jobs and high performing schools[1]. When determining sites to include in the inventory to meet the lower income housing need, HCD recommends that a local government first identify development potential in high opportunity neighborhoods. This will assist the local government in meeting its requirements to affirmatively further fair housing and ensure developments are more competitive for development financing.

[1] Please Note: Significant increases in the housing capacity of the residential land inventory of the housing element could also warrant planning for updating of other elements, including the land use, safety, circulation elements and inclusion of an environmental justice element or environmental justice policies. The housing element must include a program describing the means by which consistency will be achieved with other general plan elements and community goals (GC 65583(c)(8)).

SITE INVENTORY GUIDEBOOK FRAMEWORK

The following is a Guidebook designed to assist a jurisdiction through the site inventory analysis required by Housing Element Law. Use of the Guidebook is not required for a determination of compliance by HCD. The Guidebook is intended to facilitate the jurisdiction in determining if adequate sites are available by income category to accommodate the jurisdiction's share of the RHNA or if rezoning or other program actions are needed. Areas of the law that are newly added since the beginning of the 5th housing element cycle are marked with the designation ***NEW*.**

Guidebook Structure

PART A: IDENTIFICATION OF SITES

General characteristics of suitable sites identified in the inventory, including zoning, infrastructure availability, and environmental constraints, among others.

PART B: SITES TO ACCOMMODATE LOW AND VERY LOW- INCOME RHNA

Analysis to determine if sites are appropriate to accommodate the jurisdiction's RHNA for low- and very low-income households.

PART C: CAPACITY ANALYSIS

Description of the methodology used to determine the number of units that can be reasonably developed on a site.

PART D: NONVACANT SITES

Analysis to determine if nonvacant sites are appropriate to accommodate the jurisdiction's RHNA.

PART E: DETERMINATION OF ADEQUATE SITES

After consideration of the above analysis and any alternate methods to accommodate RHNA, the determination of whether sufficient sites exist to accommodate RHNA or if there is a shortfall requiring a program to rezone additional sites.

PART A: IDENTIFICATION OF SITES

Step 1: Identification of Developable Sites

Government Code section 65583.2(a)

Generally, a site is a parcel or a group of parcels that can accommodate a portion of the jurisdictions RHNA. A jurisdiction must identify, as part of an inventory, sites within its boundaries (i.e., city limits or a county's unincorporated area)[2] that could have the potential for new residential development within the eight- or five-year timeframe of the housing element planning period.

Types of sites include:

- Vacant sites zoned for residential use.
- Vacant sites zoned for nonresidential use that allow residential development.
- Residentially zoned sites that are capable of being developed at a higher density (nonvacant sites, including underutilized sites).
- Sites owned or leased by a city, county, or city and county.
- Sites zoned for nonresidential use that can be redeveloped for residential use and a program is included to rezone the site to permit residential use.

Pending, approved, or permitted development:

Projects that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA allocation based on the affordability and unit count of the development. For these projects, affordability is based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project (See Part E). For projects yet to receive their certificate of occupancy or final permit, the element must demonstrate that the project is expected to be built within the planning period.

Definition of Planning Period: The "Planning period" is the time period between the due date for one housing element and the due date for the next housing element (Government Code section 65588(f)(1).) For example, the San Diego Association of Governments' 6th Cycle Planning Period is April 15, 2021 to April 15, 2029.

Definition of Projection Period: "Projection period" is the time period for which the regional housing need is calculated (Government Code section 65588(f)(2).). For example, the San Diego Association of Governments' 6th Cycle Projection Period is June 30, 2020 to April 15, 2029.

Please note, sites with development projects where completed entitlements have been issued are no longer available for prospective development and must be credited towards the RHNA based on the affordability and unit count of the development. "Completed entitlements" means a housing development or project which has received all the required land use approvals or entitlements necessary for the issuance of a building permit. This

[2] In some cases, jurisdictions may want to include sites anticipated to be annexed in the planning period. Annexation is considered a rezoning effort to accommodate a shortfall of sites. For more information on annexation please see Part E, Step 3.

means that there is no additional action required to be eligible to apply and obtain a building permit.

Jurisdictions may choose to credit sites with pending projects since the beginning of the RHNA projection period towards their RHNA based on affordability and unit count within the proposed project but must demonstrate the units can be built within the remaining planning period. Affordability must be based on the projected sales prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.

Census definition of a unit: A housing unit is a house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants do not live and eat with other persons in the structure and which have direct access from the outside of the building or through a common hall. Living quarters of the following types are excluded from the housing unit definition: dormitories, bunkhouses, and barracks; quarters in predominantly transient hotels, motels, and the like, except those occupied by persons who consider the hotel their usual place of residence; quarters in institutions, general hospitals, and military installations, except those occupied by staff members or resident employees who have separate living arrangements.

Student/University Housing: Please be aware, college and university student housing may be considered noninstitutional group quarters and not a housing unit for purposes of meeting the RHNA. According to the census, college/university student housing includes residence halls and other buildings, including apartment-style student housing, designed primarily to house college and university students in group living arrangements either on or off campus. These facilities are owned, leased, or managed by a college, university, or seminary or can be owned, leased, or managed by a private company or agency. Residents typically enter into “by the bed” leases (i.e., single-liability leases). Another distinguishing factor is that the unit is not available for rent to non-students. For further information on whether university housing meets the definition of a housing unit, please contact the Department of Finance at (916) 323-4086.

<u>Exempt entity-controlled sites (state excess sites, military, university, and tribal land)</u>

HCD recognizes that the development of new housing on exempt entity sites (land controlled by exempt federal, state, or tribal entities) can meet a portion of a jurisdiction’s RHNA. However, sites located on land controlled by exempt entities are analyzed differently because the jurisdiction may not have control over the planning, permitting, and decision-making processes of land owned by another public entity.

Sites controlled by exempt entities can be used to accommodate RHNA when documentation can be provided that demonstrates the likelihood that the planned housing will be developed within the current RHNA/housing element cycle. Adequate documentation can vary due to differences in the planning processes on land controlled by exempt federal, state, or tribal entities. The following are examples of documentation that demonstrates the likelihood of housing being developed on sites outside the control of a local government. In each of these examples, the units would have to meet the U.S. Census Bureau (Census) definition of a housing unit:

- Agreement with the entity controlling the land that grants the jurisdiction authority regarding approving, permitting, certifying occupancy, and/or reporting new units to the California Department of Finance.
- Documentation from the entity controlling the land that demonstrates planned housing has been approved to be built within the current RHNA cycle.
- Data pertaining to the timing of project construction and unit affordability by household income category.
- If the site is listed on the Department of General Services Real Estate Excess State Property map located EO N-06-19 Affordable Housing Development webpage.

Step 2: Inventory of Sites
Government Code section 65583.2(b)

Provide a parcel specific inventory of sites that includes the following information for each site:

- ***NEW*** Assessor parcel number(s).
- Size of each parcel (in acres).
- General plan land use designation.
- Zoning designation.
- For nonvacant sites, a description of the existing use of each parcel (See Part D)
- ***NEW*** Whether the site is publicly owned or leased.
- Number of dwelling units that the site can realistically accommodate (See Part C)
- ***NEW*** Whether the parcel has available or planned and accessible infrastructure (Part A: Step 3).
- ***NEW*** The RHNA income category the parcel is anticipated to accommodate (See Part A: Step 5).
- ***NEW*** If the parcel was identified in a previous planning period site inventory (Part B: Step 1).

NEW Please note pursuant to Chapter 667, Statutes of 2019 (SB 6), the site inventory must be prepared using the standards, form, and definitions adopted by HCD. HCD has prepared a form and instructions for this purpose that includes space for the information above and commonly provided optional fields. Starting January 1, 2021, local governments will need to submit an electronic version of the site inventory to HCD on this form along with its adopted housing element.

NEW Pursuant to Chapter 664, Statutes of 2019 (AB 1486), at Government Code section 65583.2(b)(3), if a site included in the inventory is owned by the city or county, the housing element must include a description of whether there are any plans to sell the property during the planning period and how the jurisdiction will comply with the Surplus Land Act Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

Step 3: Infrastructure Availability
Government Code section 65583.2(b)(5)(B)

Determine if parcels included in the inventory, including any parcels identified for rezoning, have sufficient water, sewer, and dry utilities available and accessible to support housing development or whether they are included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity to secure sufficient water, sewer, and dry utilities supply to support housing development on the site in time to make housing development realistic during the planning period. Dry utilities include, at minimum, a reliable energy source that supports full functionality of the

home and could also include access to natural gas, telephone and/or cellular service, cable or satellite television systems, and internet or Wi-Fi service.

If Yes: Provide an analysis in the housing element describing existing or planned water, sewer, and other dry utilities supply, including the availability and access to parcels on the site inventory, distribution facilities, general plan programs or other mandatory program or plan (including a program or plan of a public or private entity to secure water or sewer service) to support housing development on the site. The housing element must include sufficient detail to determine whether the service levels of water delivery/treatment systems and sewer treatment facilities are sufficient and have the capacity to accommodate development on all identified sites in order to accommodate the RHNA. For example, the water supply should be a reliable supply that meets federal and state drinking water standards.

Please note sites identified as available for housing for above moderate-income households can still be in areas not served by public sewer systems.

If No: Include a program in the housing element that ensures access and availability to infrastructure to accommodate development within the planning period. If this is not possible, the site is not suitable for inclusion in the site inventory or in a program of action identifying a site for rezoning.

Step 4: Map of Sites
Government Code section 65583.2(b)(7)

Provide a map that shows the location of the sites included in the inventory. While the map may be on a larger scale, such as the land use map of the general plan, the more detailed the map, the easier it will be to demonstrate the sites meet new requirements pursuant to Chapter 958, Statutes of 2018 (AB 686) as stated below.

Step 5: Determination of Consistency with Affirmatively Furthering Fair Housing
Government Code section 65583.2(a)

NEW Pursuant to AB 686, for housing elements due on or after January 1, 2021, sites must be identified throughout the community in a manner that affirmatively furthers fair housing opportunities (Government Code Section 65583(c)(10)).

Affirmatively Furthering Fair Housing means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency's[3]

[3] Public Agencies include the state, including every state office, officer, department, division, bureau, board, and commission, including the California State University, a city, including a charter city, county, including a charter county, city and county, and a redevelopment successor agency, a public housing authority created pursuant to the Housing Authorities Law, a public housing agency, and any other political subdivision of the state that is a grantee or subgrantee receiving funds provided by the United States Department of Housing and Urban Development (Government Code section 8899.5(a)(2).

activities and programs relating to housing and community development." (Government Code section 8899.50(a)(1)).

For purposes of the housing element site inventory, this means that sites identified to accommodate the lower-income need are not concentrated in low-resourced areas (lack of access to high performing schools, proximity to jobs, location disproportionately exposed to pollution or other health impacts) or areas of segregation and concentrations of poverty. Instead, sites identified to accommodate the lower income RHNA must be distributed throughout the community in a manner that affirmatively furthers fair housing. One resource the jurisdiction could use when completing this analysis is the California Tax Credit Allocation/California Department of Housing and Community Development Opportunity Maps, which can be accessed at https://www.treasurer.ca.gov/ctcac/opportunity.asp. Particularly, the jurisdiction should consider the barriers and opportunities identified in its assessment of fair housing pursuant to Government Code section 65583(c)(10). HCD plans to release a technical assistance memo to assist jurisdictions in addressing AB 686 requirements in their housing element in the Summer of 2020.

Jurisdictions should also consider integrating this analysis with the requirements of Government Code 65302(h), as added by SB 1000 (Statutes of 2016), which requires the preparation and adoption of an Environmental Justice element or equivalent environmental justice-related policies, objectives, and goals throughout other elements of their general plan, to address the needs of disadvantaged communities. More information on Environmental Justice elements can be found on the Governor's Office of Planning and Research Website.

Step 6: Sites by RHNA Income Category
Government Code section 65583.2(c)

NEW Identify which RHNA income category that each site in the inventory is anticipated to accommodate. On the site inventory, specify whether the site or a portion of the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. Sites can accommodate units for more than one income category. However, the inventory should indicate the number of units of each income category, and together the total of units attributed to each income category may not exceed total units attributed to the site, so that no unit is designated for more than one income category. This requirement is particularly important because the No Net Loss Law (Government Code section 65863) requires adequate sites be maintained throughout the planning period to accommodate the remaining RHNA by income category. For more information, please consult the HCD's memo on No Net Loss Law.

HCD Best Practices for selecting sites to accommodate the lower income RHNA:
When determining which sites are best suited to accommodate the RHNA for lower income households, the jurisdiction should consider factors such as:

- Proximity to transit.
- Access to high performing schools and jobs.
- Access to amenities, such as parks and services.
- Access to health care facilities and grocery stores.
- Locational scoring criteria for Low-income Housing Tax Credit (TCAC) Program funding.
- Proximity to available infrastructure and utilities.

- Sites that do not require environmental mitigation.
- Presence of development streamlining processes, environmental exemptions, and other development incentives.

Step 7: Environmental Constraints
Government Code section 65583.2(b)(4)

Provide in the analysis a general description of any known environmental or other features (e.g., presence of floodplains, protected wetlands, oak tree preserves, very high fire hazard severity zones) that have the potential to impact the development viability of the identified sites. The housing element need only describe those environmental constraints where documentation of such conditions is available to the local government. This analysis must demonstrate that the existence of these features will not preclude development of the sites identified in the planning period at the projected residential densities/capacities. This information need not be identified on a site-specific basis. However, local governments will find it beneficial to describe site specific environmental conditions when demonstrating site suitability and realistic buildout capacity of each site, as these types of impediments to building must be considered when determining how many residential units can be developed on the site.

NEXT STEP:

- If the site is selected to accommodate its low or very-low income RHNA, move to Part B: Sites to Accommodate Low and Very-Low Income RHNA.
- If the site accommodates moderate or above-moderate RHNA, move to Part C: Capacity Analysis.

PART B: SITES TO ACCOMMODATE LOW AND VERY LOW- INCOME RHNA

Step 1: *NEW* Sites Used in Previous Planning Periods Housing Elements

Government Code section 65583.2(c)

Determine if the site identified to accommodate the low- and very low-income RHNA pursuant to Part A, Step 6 was used in the previous planning period[4]. Generally, previously identified sites refer to parcels that were identified in a previous housing element's site inventory to accommodate any portion of any income category of the jurisdiction's RHNA, as follows:

For a nonvacant site: Included in a prior planning period's housing element (e.g., 5th cycle housing element)

For a vacant site (see definition of vacant site on page 21): Included in two or more consecutive planning periods (e.g., 5th cycle and 4th cycle housing element)

If Yes: move to Step 1A

If No: move to Step 2

Unusual Circumstances

Sites rezoned or identified for rezoning to accommodate a RHNA shortfall

Previously identified sites can also include sites that were subject to a previous housing element's rezone program but that were ultimately not rezoned. For example: a previous housing element's rezone program to address a shortfall of sites for lower income households committed to rezone four acres to R-4 zoning, and identified five candidate sites for rezoning, A through E, and each site was two acres in size. If the program was completed in the prior planning period and four acres were rezoned, only those sites rezoned are considered "previously identified." However, if none or fewer than four acres were rezoned, all the non-rezoned sites identified as candidate sites would be considered as "previously identified."

Sites rezoned to a higher density as part of a general plan update (not needed to accommodate a shortfall)

Due to updates in the prior planning period to the general plan or other planning activities, such as the creation of a specific plan, some sites previously identified in the housing element may have been rezoned allowing a higher density, and therefore increasing the potential housing capacity of the site. Because the zoning characteristics of this site have changed, it can be considered a new site for the purposes of the housing element inventory. This is only the case if it was not utilized to accommodate a shortfall of sites to accommodate the RHNA.

[4] Sites in unincorporated areas in a nonmetropolitan county without a micropolitan area are exempt from this step. This includes the unincorporated parts of Alpine, Amador, Calaveras, Colusa, Glenn, Mariposa, Modoc, Mono, Plumas, Sierra, Siskiyou, Trinity.

Step 1A:
Indicate in the housing element site inventory that this parcel was used in a prior housing element planning period.

Step 1B:
Include a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right at specified densities (see Step 2) for housing developments in which at least 20 percent of the units are affordable to lower income households. This program can be an overlay on these specific sites. Please be aware that the intent of this requirement is to further incentivize the development of housing on sites that have been available over one or more planning periods. The application of the requirement should not be used to further constrain the development of housing. As such, housing developments that do not contain the requisite 20 percent would still be allowed to be developed according to the underlying (base) zoning but would not be eligible for "by right" processing. However, the jurisdiction would have to make findings on the approval of that project pursuant to No Net Loss Law (Government Code section 65863) and proceed to identify an alternative site or sites pursuant to that law. Sites where zoning already permits residential "use by right" as set forth in Government Code section 65583.2 (i) at the beginning of the planning period would be considered to meet this requirement.

Definition of Use By Right (Government Code section 65583.2 (i))

By right means the jurisdiction shall not require:

- A conditional use permit.
- A planned unit development permit.
- Other discretionary, local-government review or approval that would constitute a "project" as defined in Section 21100 of the Public Resources Code (California Environmental Quality Act "CEQA").

However, if the project requires a subdivision, it is subject to all laws, including CEQA.

This does not preclude a jurisdiction from imposing objective design review standards. However, the review and approval process must remain non discretionary and the design review must not constitute a "project" as defined in Section 21100 of the Public Resources Code. For example, a hearing officer (e.g., zoning administrator) or other hearing body (e.g., planning commission) can review the design merits of a project and call for a project proponent to make design-related modifications, but cannot exercise judgment to reject, deny, or modify the "residential use" itself. (See *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2019) 31 Cal.App.5th 80.)

For reference, CEQA applies when a governmental agency can exercise judgment in deciding whether and how to carry out or approve a project. This makes the project "discretionary" (CEQA Guidelines, §15357.) Where the law requires a governmental agency to act on a project using fixed standards and the agency does not have authority to use its own judgment, the project is called "ministerial," and CEQA does not apply. (CEQA Guidelines, §§ 15268(a), 15369.)

Sample Program:
Provide Adequate Sites for Lower Income Households on Nonvacant and Vacant Sites Previously Identified

The City of X will rezone to allow developments by right pursuant to Government Code section 65583.2(i) when 20 percent or more of the units are affordable to lower income households on sites identified in Table A to accommodate the lower income RHNA that was previously identified in past housing elements. Specifically, the City will rezone the nonvacant sites identified on Table A previously identified in the 5th cycle housing element, and the vacant sites identified on Table A as previously identified for both the 5th and 4th cycle housing elements.

Objective: Create opportunity for at least X units of rental housing for lower income households

Responsible Agency: Community Development Department

Timeline: Sites rezoned by (a specific date, no more than three years from the beginning of the planning period)

Funding Source(s): General fund

Step 2: Zoning Appropriate to Accommodate Low- and Very Low- Income RHNA
Government Code section 65583.2(c)(3)

Determine if the zoning on the site is appropriate to accommodate low- and very low-income (termed together as "lower") housing.

The statute allows jurisdictions to use higher density as a proxy for lower income affordability, as long as certain statutory requirements are met. Parcels must be zoned to allow sufficient density to accommodate the economies of scale needed to produce affordable housing. To make this determination, the statute allows the jurisdiction to either demonstrate that the zoning allows a specific density set forth in the statute (default density)[5] or to provide an analysis demonstrating the appropriateness of the zoned densities of the site identified to accommodate the lower RHNA.

Step 2A: Does the parcel's zoning allow for "at least" the following densities?

- For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.
- For an unincorporated area in a nonmetropolitan county not included in the first bullet: sites allowing at least 10 units per acre.
- For a suburban jurisdiction: sites allowing at least 20 units per acre.
- For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

"At least" means the density range allowed on the parcel by the zone has to include the default density. For example, if a jurisdiction has a default density of 30 units per acre and the zone allows for range of 24 – 35 units per acre, the zoning is considered appropriate to accommodate the RHNA for lower income households. This is different than the program standard outlined in Part E which requires a minimum of a specific density in the allowed

[5] Sometimes called "Mullin densities" after the author of AB 2348, Statutes of 2004, which originated these requirements.

density range in the zone. To determine the default density for jurisdictions, please refer to HCD Memorandum: Default Density Standard Option (2010 Census Update).

If Yes: Move to Step 3

If No: Move to Step 2B

Step 2B: Can the analysis demonstrate the appropriateness of the zoning to accommodate housing?

Provide an analysis demonstrating how the allowed densities facilitate the development of housing to accommodate the lower income RHNA. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, and information based on development project experience within a zone or zones, or at densities that accommodate housing for lower income households.

Information gathered from local developers on densities ideal for housing development in the community and examples of recent residential projects that provide housing for lower income households is helpful in establishing the appropriateness of the zone. Other information could include land costs, market demand for various types of affordable housing, and the gap between typical market rents and subsidized rents. It is recognized that housing affordable to lower income households requires significant subsidies and financial assistance. However, for this analysis, identifying examples of subsidized housing projects alone is not sufficient to demonstrate the adequacy of a zone and/or density to accommodate the housing affordable to lower income households. In particular, identification of older project(s) or one-off projects that cannot be easily duplicated is not sufficient to demonstrate a development trend.

The analysis of “appropriate zoning” should not include residential buildout projections resulting from the implementation of a jurisdiction’s inclusionary program or potential increase in density due to a density bonus, because these tools are not a substitute for addressing whether the underlining (base) zoning densities are appropriate to accommodate the RHNA for lower income households. Additionally, inclusionary housing ordinances applied to rental housing must include options for the developer to meet the inclusionary requirements other than exclusively requiring building affordable units on site. While an inclusionary requirement may be a development criterion, it is not a substitute for zoning. The availability of density bonuses is also not a substitute for an analysis, since they are not a development requirement, but are development options over the existing density, and generally require waivers or concessions in development standards to achieve densities and financial feasibility.

If Yes: Move to Step 3

If No: Site is not appropriate to accommodate lower income. Reclassify pursuant to Part A, Step 5.

Housing Overlays

Affordable housing or zoning overlays are a zoning tool that allows jurisdictions to modify existing zoning to allow for or require certain types of residential development, or development at certain densities, on a parcel without modifying the standards of the underlying zoning district. Usually, they have specific requirements and conditions (e.g., a percentage of the development must be deed-restricted as affordable to lower income households for a specific number of years) that must be met in order for a developer to take advantage of the overlay. These are often combined with incentives to encourage developers to utilize the overlay. Jurisdictions use overlays to help promote a specific type of development, and to increase densities without having to go through a rezoning procedure on the actual parcel and can be more useful when issues such as density and affordable housing become contentious. To ensure the overlay is considered zoning and not just a development incentive, the overlay must demonstrate the following:

- There is no additional discretionary action needed above what is required in the base zone (i.e., a conditional use permit or other review) for a developer to take advantage of overlay.
- Development standards are consistent with those needed to allow for the density allowed under the overlay. Development standards for use exclusively in the overlay may be needed in order to ensure maximum allowable densities can be achieved.
- The developer can access State Density Bonus Law in addition to using the densities allowed in the overlay. For example, if the underlying zoning allows a maximum density of 15 units per acre, but the overlay allows a maximum density of 25 units per acre, and if the developer is using the overlay and wants to use State Density Bonus Law, the density bonus is calculated assuming the base density is 25 units per acre.

If the overlay has conditions such as an affordability requirement, incentives should be sufficient and available to make development feasible and more profitable than the underlying zoning.

For an affordable housing overlay, the element should describe affordability threshold requirements to utilize the overlay (i.e., percentage of units and levels of affordability which must be met to develop at the increased densities). Please note, the jurisdiction should talk with for-profit and nonprofit developers to determine an appropriate mix of incomes that make development feasible in their community. For example, a 100 percent affordability requirement may act as a constraint to using the overlay depending on the level of subsidy required per unit and the availability of funding to support the level of affordability or available incentives.

Step 3: Size of Sites

Government Code section 65583.2(c)(2)(A), (B), and (C)

NEW Is the size of the site appropriate to accommodate housing for lower income households?

To achieve financial feasibility, many assisted housing developments using state or federal resources are between 50 to 150 units. Parcels that are too small may not support the number of units necessary to be competitive and to access scarce funding resources. Parcels that are large may require very large projects, which may lead to an over concentration of affordable housing in one location, or may add cost to a project by

requiring a developer to purchase more land than is needed, or render a project ineligible for funding. If the size of the site is smaller than one half acre or larger than 10 acres, the following analysis is required.

If the parcel is more than 0.5 acres or less than 10 acres, is the size of the site automatically considered appropriate to accommodate lower income RHNA?

Not necessarily. If the size of the parcel in combination with the allowable density and accompanying development standards cannot support a housing development affordable to lower income households, further analysis and programs may be needed to demonstrate the suitability of that site to accommodate the portion of the RHNA for lower income households.

Is the size of the parcel under 0.5 acres?
If Yes: Move to Step 3A

Is the size of the parcel over 10 acres?
If Yes: Move to Step 3B

If No to Both: Move to Part C: Capacity Analysis

Step 3A: Sites smaller than 0.5 acres
A parcel smaller than one half acre is considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on these sites is realistic or feasible. While it may be possible to build housing on a small parcel, the nature and conditions (i.e., development standards) necessary to construct the units often render the provision of affordable housing infeasible. The housing element must consider and address the impact of constraints associated with small lot development on the ability of a developer to produce housing affordable to lower income households. To demonstrate the feasibility of development on this type of site, the analysis must include at least one of the following:

- An analysis demonstrating that sites of equivalent size were successfully developed during the prior planning period with an equivalent number of lower income housing units as projected for the site.
- Evidence that the site is adequate to accommodate lower income housing. Evidence could include developer interest, potential for lot consolidation, densities that allow sufficient capacity for a typical affordable housing project, and other information that can demonstrate to HCD the feasibility of the site for development. For parcels anticipated to be consolidated, the housing element must include analysis describing the jurisdiction's role or track record in facilitating small lot consolidation, policies or incentives offered or proposed to encourage and facilitate lot consolidation, conditions rendering parcels suitable and ready for consolidation such as common ownership, and recent trends of lot consolidation. The housing element should include programs promoting, incentivizing, and supporting lot consolidations and/or small lot development.
- A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

The housing element must also describe existing and proposed policies or incentives the jurisdiction will offer to facilitate development of small sites. Examples of program incentives for lot consolidation include deferring fees specifically for consolidation, expediting permit processing, providing flexible development standards such as setback requirements, reduced parking or increased heights, committing resources for development of affordable housing on small sites, or increasing allowable density, lot coverage or floor area ratio.

Step 3B: Sites larger than 10 acres

Parcels larger than 10 acres are considered inadequate to accommodate housing affordable to lower income households, unless the housing element demonstrates development of housing affordable to lower income households on such sites was successful during the prior planning period, or there is other evidence that the site is realistic and feasible for lower income housing.

Definition of a Large Site

For purposes of this requirement, "site" means that portion of the parcel designated to accommodate lower income housing needs. For example, a parcel greater than 10 acres in size could have to be split zoned, have an overlay zone with identified boundaries, or be identified in a specific plan that provides for subdivision of the parcel. If the specified boundaries of the site identified to accommodate the RHNA for lower income is less than 10 acres in size, then the large site analysis would not be required. However, the analysis must describe how the development will work on the site, including opportunities and timing for specific-plan development, further subdivision, or other methods to facilitate the development of housing affordable to lower income households on the identified site within the planning period.

To demonstrate the feasibility of development on this type of site, the analysis must include at least one of the following:

- An analysis demonstrating that sites of equivalent size were successfully developed during the prior planning period with an equivalent number of lower income housing units as projected for the site.
- Evidence that the site is adequate to accommodate lower income housing. Evidence may include developer interest, proposed specific-plan development, potential for subdivision, the jurisdiction's role or track record in facilitating lot splits, or other information that can demonstrate to HCD the feasibility of the site for development. The housing element should include programs promoting, incentivizing, and supporting lot splits and/or large lot development.
- A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

Specific Plans, Master Plan, and other Subdivisions

To utilize residential capacity in Specific Plan areas, areas under a Master Plan, or a similar multi-phased development plan, the housing element must identify specific sites by parcel number and demonstrate that the sites are available and suitable for development within the planning period. The analysis should include the following information:

- Identify the date of approval of the plans and expiration date.
- Identify approved or pending projects within these plans that are anticipated in the planning period, including anticipated affordability based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.
- Describe necessary approvals or steps for entitlements for new development (e.g., design review, site plan review, etc.).
  Describe any development agreements, and conditions or requirements such as phasing or timing requirements, that impact development in the planning period.

The housing element must also describe existing and proposed policies or incentives the jurisdiction will offer to facilitate development of large sites. Examples of facilitation include expedited or automatic approval of lot splits or creation of new parcels, waivers of fees associated with subdivision, or expedited processing or financial assistance with the development of infrastructure required to develop the site.

NEXT STEP:

- Move to Part C: Capacity Analysis

PART C: CAPACITY ANALYSIS

Government Code Section 65583.2(c) requires, as part of the analysis of available sites, a local government to calculate the projected residential development capacity of the sites identified in the housing element that can be realistically be achieved. The housing element must describe the methodology used to make this calculation. Jurisdictions have two options to make this calculation.

- Utilize minimum densities (Step 1)
- Utilize adjustment factors (Step 2)

Step1: Utilizing minimum densities to calculate realistic capacity of sites

Government Code section 65583.2(c)(1)

If the jurisdiction has adopted a law, policy, procedure, or other regulation that requires the development of a site to contain at least a certain minimum residential density, the jurisdiction can utilize that minimum density to determine the capacity of a site. For purposes of this analysis, the use of either gross or net acreage is acceptable but should be consistent with the standard the jurisdiction typically uses for determining allowable units for a residential development project. For example:

Site Description	Value
Size of site (Gross acreage)	3 acres
Zoning	Residential Multifamily
Allowable density	20 (required minimum) – 30 dwelling units per acre
Realistic capacity utilizing minimum	**3 X 20 = 60 units**

Please note, to meet this standard on a zone that allows for multiple uses, the general plan or zoning must require the specified minimum number of residential units on the identified sites regardless of overlay zones, zoning allowing nonresidential uses, or other factors potentially impacting the minimum density. Otherwise, the capacity of the site must be calculated using the factors outlined in Step 2.

Step 2: Utilizing factors to calculate realistic capacity of sites

Government Code section 65583.2(c)(2)

The housing element must describe the methodology used to determine the number of units calculated based on the following factors:

- Land use controls and site improvements requirements,
- ***NEW*** The realistic development capacity for the site,
- ***NEW*** Typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction,
- ***NEW*** The current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

Applicable land-use controls and site improvement requirements

The analysis must consider the imposition of any development standards that impact the residential development capacity of the sites identified in the inventory. When establishing realistic unit capacity calculations, the jurisdiction must consider the cumulative impact of standards such as maximum lot coverage, height, open space, parking, on-site improvements such as sidewalks or easements, and floor area ratios. The analysis should consider any development standards or the cumulative effect of development standards that would limit the achievable density on a site. For example, if a mixed-use zone requires commercial on the ground floor and has a height limit of three stories along with lot coverage and other development standards, the density that can actually be achieved on that site might be less than the maximum allowable density.

The capacity of a site should also be adjusted for areas that cannot be developed due to environmental factors such as hazards, wetlands, or topography that cannot be mitigated. The capacity of sites subject to specific plans, overlays or other modifications of the base zoning should be adjusted to reflect those factors. For purposes of this analysis, it is recommended that the jurisdiction start with the gross acreage and adjust the buildable acreage accordingly to reach net buildable acreage.

Form Based Codes

To estimate capacity for sites in jurisdictions that have adopted form-based codes, the element should describe the relationship between general plan land-use designation and the form-based code and density assumptions used to determine capacity. Specifically, describe where residential development is allowed, how density requirements found within the general plan are incorporated, how the zoning designations under the form-based code relate to the land-use designations of the general plan, identify potential densities, and consider development standards such as bulk, height, and build-to requirements, buildings types, and use requirements. The element could include examples of recently built projects and densities to support the analysis.

Realistic development capacity for nonresidential, nonvacant, or overlay zoned sites

The capacity calculation must be adjusted to reflect the realistic potential for residential development capacity on the sites in the inventory. Specifically, when the site has the potential to be developed with nonresidential uses, requires redevelopment, or has an overlay zone allowing the underlying zoning to be utilized for residential units, these capacity limits must be reflected in the housing element. Factors used to make this adjustment may include the following:

- Performance standards mandating a specified portion of residential development in mixed use or nonresidential zones (e.g., residential allowed only above first floor commercial).
- The likelihood for residential development such as incentives for residential use, market demand, efforts to attract and assist developers, or allowance of 100 percent residential development.
- Local or regional residential development trends in the same nonresidential zoning districts.
- Local or regional track records, past production trends, or net unit increases/yields for redeveloping sites or site intensification. This estimate may be based on the rate at which similar parcels were developed during the previous planning period, with

adjustments as appropriate to reflect new market conditions or changes in the regulatory environment. If no information about the rate of development of similar parcels is available, report the proportion of parcels in the previous housing element's site inventory that were developed during the previous planning period. For example, if past production trends indicate that two out of three similar sites were developed for residential use, and one out of three similar sites was developed for commercial use, an initial estimate of the proportion of new development which is expected to be residential would be two-thirds, i.e., 0.67.

- Local or regional track records, trends, or build out yields for redeveloping sites or site intensification.

In addition, the housing element should include monitoring programs with next-step actions to ensure sites are achieving the anticipated development patterns. The programs should identify modifications to incentives, sites, programs, or rezoning the jurisdiction will take should these strategies not yield the expected housing potential.

Typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction

While using typically built densities to determine realistic capacity has long been an option to be used as an adjustment factor, the statute now requires this factor to be adjusted based on approved project by affordability level. For example, if a site is identified to accommodate the lower income RHNA, it should use project densities for housing affordable to lower income households developed either locally or regionally to determine typical densities[6]. Using this adjustment factor may result in utilizing different capacity methodologies for above moderate-, moderate-, and lower income sites.

Current or planned availability and accessibility of sufficient water, sewer, and dry utilities

The capacity methodology must be adjusted to account for any limitation as a result of availability and accessibility of sufficient water, sewer, and dry utilities (i.e., if the capacity of the site could be limited because a development would have to use a septic system, if there are any septic tank requirements or restrictions that constrain capacity, or limitations on water hook-ups). See Part A, Step 3 for more information on infrastructure requirements.

Example Capacity Calculation

Here is an example of the actual capacity calculation for a particular site in the inventory. The methodology analysis must describe how each of these adjustments was generated per the analysis requirements above. The factors used below are based on the factors outlined in the statute. The percentages and how the factors are applied will vary depending on the unique circumstance in each jurisdiction.

[6] In using this adjustment factor, because of the use of density bonus, it may be possible that trends demonstrate typical densities higher than the maximum allowable densities, especially for housing affordable to lower income households. On a case-by-case basis, it may be appropriate to utilize increased densities due to density bonuses when determining the adjustment factor in the capacity methodology.

Site Description	
Size of site	2.5 acres
Zoning	Residential Mixed-Use
Allowable density	20 – 45 dwelling units per acre
RHNA affordability	Lower income
Existing Use	Nonvacant, single storefront
Infrastructure availability	Yes, no constraints
Environmental constraints	None known

Capacity Factors	Adjustment	Reasoning
Land Use Controls and Site Improvements	95%	For net acreage due to on-site improvements including sidewalks, utility easement
Realistic capacity of the site	55%	55% adjustment based on past development trends for residential redevelopment in the residential mixed-use zones, and programs to incentivize development in this zone.
Typical densities	95%	Affordable housing projects are built out to almost maximum density
Infrastructure availability	No adjustment	Not applicable, no constraint
Environmental constraints	No adjustment	No known site constraint

Realistic capacity utilizing factors = (2.5 X 45)(.95)(.55)(.95) = 56 units

Realistic Capacity = 56 Units

No Net Loss Law

In estimating realistic capacity on sites in the sites inventory, jurisdictions may want to consider No Net Loss Law. This law was amended by Chapter 367, Statutes of 2017 (Senate Bill 166), which requires sufficient adequate sites to be available at all times throughout the RHNA planning period to meet a jurisdiction's remaining unmet housing needs for each income category. To comply with the No Net Loss Law, as jurisdictions make decisions regarding zoning and land use, or development occurs, jurisdictions must assess their ability to accommodate new housing in each income category on the remaining sites in their housing element site inventories. A jurisdiction must add additional sites to its inventory if land use decisions or development results in a shortfall of sufficient sites to accommodate its remaining housing need for each income category. In particular, a jurisdiction may be required to identify additional sites according to the No Net Loss Law if a jurisdiction rezones a site or if the jurisdiction approves a project at a different income level than shown in the sites inventory. Lower density means fewer units than the capacity assumed in the site inventory.

To ensure that sufficient capacity exists in the housing element to accommodate the RHNA throughout the planning period, it is recommended the jurisdiction create a buffer in the housing element inventory of at least 15 to 30 percent more capacity than required, especially for capacity to accommodate the lower income RHNA. Jurisdictions can also create a buffer by projecting site capacity at less than the maximum density to allow for some reductions in density at a project level.

NEXT STEP:

- If the parcel is nonvacant, including underutilized sites (see definition of vacant site on page 22), move to Part D: Nonvacant Sites Analysis
- If not, move to Part E: Determination of Adequate Sites

PART D: NONVACANT SITES

Local governments with limited vacant land resources or with infill and reuse goals may rely on the potential for new residential development on nonvacant sites, including underutilized sites, to accommodate their RHNA. Examples include:

- Sites with obsolete uses that have the potential for redevelopment, such as a vacant restaurant.
- Nonvacant publicly owned surplus or excess land; portions of blighted areas with abandoned or vacant buildings.
- Existing high opportunity developed areas with mixed-used potential.
- Nonvacant substandard or irregular lots that could be consolidated.
- Any other suitable underutilized land.

Local governments can meet other important community objectives to preserve open space or agricultural resources, as well as assist in meeting greenhouse gas emission-reduction goals, by adopting policies to maximize existing land resources and by promoting more compact development patterns or reuse of existing buildings.

Definition of a Vacant Site

A vacant site is a site without any houses, offices, buildings, or other significant improvements on it. Improvements are generally defined as development of the land (such as a paved parking lot, or income production improvements such as crops, high voltage power lines, oil-wells, etc.) or structures on a property that are permanent and add significantly to the value of the property.

Examples of Vacant Sites:

- No improvement on the site (other than being a finished lot).
- No existing uses, including parking lots.
- Underutilized sites are not vacant sites.
- Sites with blighted improvements are not vacant sites.
- Sites with abandoned or unoccupied uses are not vacant sites.

If the inventory identifies nonvacant sites to address a portion of the RHNA, the housing element must describe the realistic development potential of each site within the planning period. Specifically, the analysis must consider the extent that the nonvacant site's existing use impedes additional residential development, the jurisdiction's past experience converting existing uses to higher density residential development, market trends and conditions, and regulatory or other incentives or standards that encourage additional housing development on the nonvacant sites.

Step 1: Description of the nonvacant site
Government Code Section 65583.2(b)

As stated in Part A, the site inventory must describe the specific existing use on the site, such as a surplus school site, auto shop, restaurant, single family residence, nursery, etc. Additional details, such as whether the use is discontinued, land to value information, age and condition of the structure, known leases, developer or owner interest, whether the property is currently being marketed, degree of underutilization, etc., are useful for demonstrating the potential for the site to be redeveloped within the planning period (See Step 2).

Step 2: Nonvacant site analysis methodology
Government Code section 65583.2(g)(1)

Provide an explanation of the methodology used to determine the development potential. This methodology can be done on a site-specific basis by utilizing factors (e.g., common ownership, valuation, age, etc.) in common that demonstrate the potential for residential development within the planning period, or a combination of both approaches. The methodology shall consider factors including:

<u>Existing Uses:</u>
Include an analysis that demonstrates the extent to which existing uses may constitute an impediment to additional residential development. Among other things, this analysis includes considerations for the current market demand for the existing use, ***NEW*** an analysis of any known existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, and could include other market conditions that would encourage redevelopment of the property. For example, an analysis might describe an identified site as being developed with a 1960's strip commercial center with few tenants and expiring leases and, therefore, a good candidate for redevelopment, versus a site containing a newly opened retail center, an active Home Depot, the only grocery store in the city, etc. that is unlikely to be available for residential development within the planning period.

<u>Development Trends:</u>
The inventory analysis should describe development and/or redevelopment trends in the community as it relates to nonvacant sites, i.e., the rate at which similar sites have been redeveloped. This could include a description of the local government's track record and specific role in encouraging and facilitating redevelopment, adaptive reuse, or recycling to residential or more intensive residential uses. If the local government does not have any examples of recent recycling or redevelopment, the housing element should describe current or planned efforts (via new programs) to encourage and facilitate this type of development (e.g., providing incentives to encourage lot consolidation or assemblage to facilitate increased residential-development capacity). The results of the analysis should be reflected in the capacity calculation described in Part C, above.

<u>Market Conditions:</u>
Housing market conditions also play a vital role in determining the feasibility or realistic potential of nonvacant sites for residential development. The nonvacant sites analysis should include an evaluation of the impact of local market conditions on redevelopment or reuse strategies. For example, high land and construction costs, combined with a limited supply of available and developable land, may indicate conditions "ripe" for more intensive, compact and infill development or redevelopment and reuse.

Availability of Regulatory and/or other Incentives:
The analysis should describe existing or planned financial assistance, incentives or regulatory concessions to encourage residential development on nonvacant sites. Many local governments develop partnerships with prospective developers to assist in making redevelopment/reuse economically feasible. Examples of these incentives include:

- Organizing special marketing events geared towards the development community.
- Identifying and targeting specific financial resources.
- Allowing streamlined or by right development application processing for infill sites.
- Reducing appropriate development standards.

Absent a track record or development trends to demonstrate the feasibility of a recycling or redevelopment strategy, the housing element should describe existing or planned financial assistance or regulatory relief from development standards that will be provided sufficient to encourage and facilitate more intensive residential development on the identified nonvacant sites.

Step 3: *NEW* Reliance on nonvacant sites to accommodate more than 50 percent of the RHNA for lower income households
Government Code Section 65583.2(g)(2)

Determine if more than 50 percent of the lower income RHNA is on nonvacant sites.

- Calculate the sum of lower income RHNA capacity on vacant sites and other alternatives not related to capacity on nonvacant sites (e.g., accessory dwelling units, vacant sites to be rezoned (see Part E)).
- Subtract that sum from the total lower income RHNA to get the amount of RHNA needed to be accommodated on nonvacant sites.
- Determine if this number is greater than 50 percent of the RHNA.

Example calculation for a jurisdiction with a lower income RHNA of 500:

Adjustment Factor	Number of units
Proposed Lower Income Project	50
Accessory Dwelling Unit Capacity (affordable to lower)	15
Capacity on Vacant Sites	100
Total Capacity (not related to non-vacant sites)	165
RHNA on Nonvacant sites	500 - 165 = 335
Percentage of Lower Income RHNA accommodated on Nonvacant sites	**335/500 = 77%**

If Yes: Move to Step 3A

If No: Move to Step 4

Step 3A:

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

- As part of the resolution adopting the housing elements, findings stating the uses on nonvacant sites identified in the inventory to accommodate the RHNA for lower income is likely to be discontinued during the planning period and the factors used to make that determination. This can be included in the body or in the recital section of the resolution.

  Example: WHEREAS, based on <name factors here (e.g., expiring leases, dilapidated building conditions, etc.)>, the existing uses on the sites identified in the site inventory to accommodate the lower income RHNA are likely to be discontinued during the planning period, and therefore do not constitute an impediment to additional residential development during the period covered by the housing element.

- The housing element should describe the findings and include a description of the substantial evidence they are based on.

  In general, substantial evidence includes facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts. An example of substantial evidence would be a nonvacant site with a grocery store and with a building lease expiring in a year, and evidence that the store has entered into a lease to relocate to another site subsequent to the lease expiring.

  Examples of substantial evidence that an existing use will likely be discontinued in the current planning period include, but are not limited to:

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

  If multiple sites make up a common existing use and the same factors affect each of the sites, the same findings can be used for each of the sites (e.g., an abandoned shopping mall with sites under common ownership that will not be restored to commercial use located in an area where there is recent residential development). The "substantial evidence" would indicate the existing use will not impede further residential development or that the existing use will be discontinued during the planning period. In this type of situation, use of the same findings for each of the multiple sites would be appropriate.

However, the same finding for multiple sites in a specific area may not be appropriate if their characteristics widely vary. For example, nonvacant sites with differing existing uses and lacking in common ownership, whether contiguous or located in the same general area, may not rely on a generalized analysis. While the sites may be located in an area with common economic issues, individual owners may not wish to sell their property or redevelop their site with residential uses. In addition, each site's existing use, e.g., grocery store, retail shop, parking lot, and offices, may have lease agreements of different lengths of time or the owner may not wish to relocate or redevelop the site with a more intensive residential use. In this type of situation, use of the same findings for the multiple sites would not be appropriate.

Step 4: *NEW* Program and policy requiring replacement of existing affordable units
Government Code Section 65583.2(g)(3)

The housing element must include a program in the housing element and policy independent of the housing element requiring the replacement of units affordable to the same or lower income level as a condition of any development on a nonvacant site consistent with those requirements set forth in Density Bonus Law (Government Code section 65915(c)(3).) Replacement requirements shall be required for sites identified in the inventory that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, and:

- Were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income, or
- Subject to any other form of rent or price control through a public entity's valid exercise of its police power, or
- Occupied by low or very low-income households

For the purpose of this program "previous five years" is based on the date the application for development was submitted.

Please note, until 2025, pursuant to Government Code section 66300(d) (Chapter 654, Statutes of 2019 (SB 330)), an affected city or county shall not approve a housing development project that will require the demolition of residential dwelling units regardless of whether the parcel was listed in the inventory unless a) the project will create at least as many residential dwelling units as will be demolished, and b) certain affordability criteria are met. A listing of affected cities and counties can be found at https://www.hcd.ca.gov/community-development/accountability-enforcement/statutory-determinations.shtml.

SAMPLE PROGRAM

Program X: Replacement Unit Program

XXXX will adopt a policy and will require replacement housing units subject to the requirements of Government Code section 65915, subdivision (c)(3) on sites identified in the site inventory when any new development (residential, mixed-use or nonresidential) occurs on a site that is identified in the inventory meeting the following conditions:

- currently has residential uses or within the past five years has had residential uses that have been vacated or demolished, and
- was subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low-income, or
- subject to any other form of rent or price control through a public entity's valid exercise of its police power, or
- occupied by low or very low-income households

Funding: General Funds

Responsible Parties: Planning and Community Development Department

Objectives: In order to mitigate the loss of affordable housing units, require new housing developments to replace all affordable housing units lost due to new development.

Timeframes: The replacement requirement will be implemented immediately and applied as applications on identified sites are received and processed, and local policy shall be adopted by <DATE>. End of Sample Program

NEXT STEP:

- Move to Part E: Determination of Adequate Sites

PART E: DETERMINATION OF ADEQUATE SITES

The last step in this process is a determination of whether the housing element demonstrates sufficient land suitable and available for residential development to meet the locality's housing need for each designated income level or if further program actions are required to accommodate a shortfall.

Step 1: Consider any alternative means of meeting the RHNA
Government Code section 65583.1

The housing element may satisfy its RHNA requirement though a variety of methods other than identifying sites. The following is a description of those alternative methods.

- Units permitted, built, entitled or pending: (See Part A, Step 1)
- Potential for accessory dwelling units (ADU) or junior accessory dwelling units (JADU): The jurisdiction can count the potential for the development of ADUs within the planning period. The analysis is based on the following factors:

  - the number of ADUs or JADUs developed in the prior planning period
  - community need and demand for these types of housing units
  - the resources and/or incentives available that will encourage the development of ADUs
  - the availability of ADUs and JADUs for occupancy, rather than used as offices or guest houses
  - the unit must meet the Census definition of a housing unit, which can be found on the U.S. Census Bureau website, and be reported to the Department of Finance as part of the annual City and County Housing Unit Change Survey
  - the anticipated affordability of these units. The purpose of this analysis is to determine the appropriate RHNA income category to be accommodated through ADU and JADU development.

    Affordability can be determined in a number of ways. As an example, a community could survey existing ADUs and JADUs for their current market rents and consider other factors such as square footage, number of bedrooms, amenities, age of the structure and general location, including proximity to public transportation. Another method could examine current market rents for reasonably comparable rental properties to determine an average price per square foot in the community. This price can be applied to anticipated sizes of these units to estimate the anticipated affordability of ADUs and JADUs. Available regional studies and methodology on ADU affordability can also be a resource to determine the likely affordability mix for ADUs and JADUs.

  - other relevant factors as determined by HCD.

  In addition, the housing element must describe and analyze any currently adopted ordinance and other factors that could affect ADU and JADU development within the planning period. At a minimum, the housing element should analyze whether the ordinance conforms with state ADU and JADU requirements and any additional development standards (i.e., setbacks, maximum unit sizes, lot coverage, etc.) adopted by the local government, zones allowing ADUs, fees and exactions, and any other potential constraints impacting the development of ADUs and JADUs.

Impact of New Accessory Dwelling Unit Laws

Since 2017, the Legislature has passed a series of new laws that significantly increase the potential for development of new ADUs and JADUs by removing development barriers, allowing ADUs through ministerial permits, and requiring jurisdictions to include programs in their housing element that incentivize their development. As a result, using trend analysis when estimating the potential for development may not accurately reflect the increased potential for these units. To account for this increased potential, HCD recommends the following options when performing this analysis:

- Use the trends in ADU construction since January 2018 to estimate new production. This is a conservative option to only account for the effect of the new laws without local promotional efforts or incentives (safe harbor option).
- Where no other data is available, assume an average increase of five times the previous planning period construction trends prior to 2018. This option is a conservative estimate based upon statewide data on ADU development since the implementation of the new laws (safe harbor option).
- Use trends from regional production of ADUs.
- Include programs that aggressively promote and incentivize ADU and JADU construction.
- Other analysis (reviewed on a case-by-case basis).

Potential affordability of these units must still be calculated per the analysis outlined on the previous page. In addition to the above options, the element should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle mid-point to evaluate if production estimates are being achieved. Depending on the finding of that review, amendments to the housing element may be necessary, including rezoning pursuant to Government Code 65583.2 (h)and (i).

- Alternative Adequate sites: Under limited circumstances, a local government may credit up to 25 percent of their adequate sites requirement per income category through existing units that will be:

  - substantially rehabilitated
  - in a multifamily rental or ownership housing complex of three or more units that are converted from non affordable to affordable rental
  - preserved at levels affordable to low- or very low-income households, where the local government has provided those units with committed assistance

  For more information on this option, please refer to HCD's Building Blocks Webpage

- Manufactured housing, manufactured housing park hook-ups, floating homes/live aboard berths: In certain circumstances a jurisdiction can utilize the potential for new manufactured housing either in a manufactured housing park or on large properties in rural areas, or new floating home/liveaboard berths with sewer and water hook ups. In cases of a manufactured home park or in floating home/liveaboard berth marinas, the jurisdiction may count new spaces with infrastructure hook-ups intended for permanent residential occupancy and reported to the Department of Finance. Potential for manufactured homes in rural areas should be analyzed using the same factors as those

for potential ADUs, including establishing the market rate affordability of the units and crediting them to the appropriate RHNA category. In addition, the analysis should indicate if appropriate water and sewer infrastructure is available to support the development.

- Former military housing: Sites that contain permanent housing units located on a military base undergoing closure or conversion as a result of action pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510), or any subsequent act requiring the closure or conversion of a military base may be identified as an adequate site if the housing element demonstrates that the housing units will be available for occupancy by households within the planning period of the housing element. No sites containing housing units scheduled or planned for demolition or conversion to nonresidential uses shall qualify as an adequate site.

- In consultation with HCD, other alternatives may be considered, such as motel conversions, adaptive reuse of existing buildings, or legalization of units not previously reported to the Department of Finance.

Step 2: Determine whether there is sufficient capacity to accommodate the RHNA for the jurisdiction by income.
Government Code Section 65583(a)(3)

The following table is an example of that calculation:

Adjustment Factor	Very Low	Low	Moderate	Above Moderate
RHNA	**300**	**200**	**165**	**465**
Entitled, Permitted, or Constructed Project Projects	50	50	0	200
Accessory Dwelling Unit Potential	10	15	15	10
Adequate Sites Alternative Preservation	20	16		
Multifamily Residential R-3 (Vacant)	75	50		
Mixed Use MU (Nonvacant)	75	50	50	
Multifamily Residential (Vacant) R-2			75	
Single-Family (Vacant) R-1				200
Spring Valley Specific Plan			150	250
Total	**230**	**181**	**290**	**660**
Shortfall/Surplus	**-70**	**-19**	**+125**	**+195**

While the jurisdiction has sufficient sites to accommodate its RHNA for moderate- and above moderate-income units, it has a shortfall of 89 units to accommodate its lower income need. The jurisdiction would be required to include a program in the housing element to accommodate that shortfall.

If Yes: Congratulations, the site inventory analysis is complete

If No: Move to Step 3

Step 3: Adequate Sites Program
Government Code section 65583(f) and Government Code section 65583.2(h)

Where the inventory of sites does not identify adequate sites to accommodate the RHNA for lower income households, a program must be included to identify sites that can be developed for housing within the planning period. The housing element should include an inventory of potential sites for rezoning. Those sites must meet the adequate sites requirements in terms of the suitability and availability outlined above.

General Program Requirements
A jurisdiction's adequate sites program must accommodate 100 percent of the shortfall of sites necessary to accommodate the remaining housing need for housing for very low- and low-income households during the planning period and include the following components:

- Permit owner-occupied and rental multifamily uses by right for developments in which 20 percent or more of the units are affordable to lower income households. By right means local government review must not require a conditional use permit, planned unit development permit, or other discretionary review or approval.
- Permit the development of at least 16 units per site.
- Ensure sites within suburban and metropolitan jurisdictions — as defined by Government Code Section 65583.2(c)(3)(B)(iii) and (iv) — permit a minimum of 16 dwelling units per acre for incorporated cities within nonmetropolitan/rural counties and nonmetropolitan counties with micropolitan areas or 20 dwelling units per acre for suburban and metropolitan jurisdictions.
- Ensure a) at least 50 percent of the shortfall of low- and very low-income regional housing need can be accommodated on sites designated for exclusively residential uses, or b) if accommodating more than 50 percent of the low- and very low-income regional housing need on sites designated for mixed-uses, all sites designated for mixed-uses must allow 100 percent residential use and require residential use to occupy at least 50 percent of the floor area in a mixed-use project.

Timing
Rezones due to a shortfall from the current planning period:

A locality's ability to accommodate needed housing during the planning period requires designating appropriate zoning as early as possible. Generally, however, a rezoning should occur no later than three years and 120 days from the beginning of the planning period. A one-year extension to the deadline to complete required rezoning may be allowed if a local government has completed rezoning at sufficient densities to accommodate at least 75 percent of the units for very-low and low-income households. Also, the jurisdiction must determine after a public meeting that substantial evidence supports findings and adoption of a resolution that the rezone deadline was not met due to one of the following reasons:

- Action or inaction beyond the control of the local government of any other state, federal, or local agency.
- Infrastructure deficiencies due to fiscal or regulatory constraints.

- The local government must undertake a major revision to its general plan in order to accommodate the housing-related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The jurisdiction must provide HCD a copy of the resolution and findings along with: - a detailed budget and schedule for preparation and adoption of required rezoning within one year of the adoption of the resolution, - plans for citizen participation, and - expected interim actions to complete the rezoning, and any revisions to the general plan (Government Code section 65583(f).

Consequences for Failing to Complete Rezoning Deadline:
If a local government fails to complete all rezoning's by the prescribed deadline, a local government may not disapprove a housing development project[7], nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project:

- Is proposed to be located on a site included in a housing element program to be rezoned.
- Complies with applicable objective general plan and zoning standards and criteria, including design review standards, described in the rezone program action.

However, any subdivision of the site is subject to the Subdivision Map Act.

A jurisdiction may disapprove a housing development or approve it upon the condition that the project be developed at a lower density only if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

- The housing development project would have a specific, adverse impact upon the public health or safety[8].
- There is no feasible method to satisfactorily mitigate or avoid the adverse impact.

The local government may also be subject to enforcement actions by HCD, including a determination that the housing element no longer complies with the requirements of state law and referral to the Attorney General pursuant to Government Code section 65585(i) and (j).

[7] "Housing development project" is defined a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate legal agency to ensure the continued availability and use of at least 49 percent of the housing units for very-low, low-, and moderate-income households with an affordable housing cost or affordable rent.

[8] "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.

Housing Accountability Act and the Housing Element

The Housing Accountability Act (Government Code section 65589.5) establishes state overarching policy that a local government not deny, reduce the density of, or make infeasible housing development projects, emergency shelters, or farmworker housing that are consistent with objective local development standards and contribute to meeting housing need. Jurisdictions without a housing element in compliance with State Housing Element Law or without a complete site inventory are further limited in the ability to deny a housing development application.

Among other requirements (including those related to housing development regardless of affordability levels), the Housing Accountability Act states that a local agency shall not disapprove or condition approval in a manner that renders the housing development project infeasible, including through the use of design review standards, for development of an emergency shelter or a housing development project for very low, low-, or moderate-income households unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

- The jurisdiction has adopted a housing element in substantial compliance with Housing Element Law and the jurisdiction has met or exceeded its share of the RHNA for the planning period for the income category proposed for the housing development project.
- The project 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.
- The denial of the 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 or rendering the development of the emergency shelter financially infeasible.
- The project is proposed on land zoned for agriculture or resource preservation, or which does not have adequate water or wastewater facilities to serve the project.
- The project is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation, unless 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, or 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.

"Housing for very low, low-, or moderate-income households" means where at least 20 percent of the total units are or will be sold or rented to lower income households or 100 percent of the units will be sold or rented to persons and families of moderate income, or persons and families of middle income.

Rezoned due to an unaccommodated need from previous planning period[9]:
Pursuant to Government Code section 65584.09, if the jurisdiction failed to make adequate sites available to accommodate the regional housing need in the prior planning period, the jurisdiction must zone or rezone sites to accommodate any unaccommodated need within the first year of the planning period. If more than one year has lapsed since the beginning of the planning period, the housing element cannot be found in compliance with Housing Element Law until the required zoning or rezoning is complete and the housing element is amended to reflect the necessary rezoning.

Annexation

If the jurisdiction must rely on annexation to accommodate its RHNA, the housing element must include a program committing to completing the annexation within three years of the planning period. In addition, the housing element must also include an evaluation of the suitability of the annexed sites, including the following information:

- Consistency with Local Agency Formation Commission (LAFCO) policies
- Actions to pre-zone prior to annexation
- Descriptions of the zone, density, development standards and design requirements
- The anticipated housing capacity allowed by each site
- Timeline to complete annexation which is early enough in the planning period to facilitate development of annexed sites (e.g., within the first three years of the planning period)
- Analysis of the suitability and availability of sites, including identification of any sites currently under Williamson Act contracts
- Demonstrated compliance with the requirements of the adequate sites program requirements of Government Code section 65583.2, subdivisions (h) and (i)

Please note, if the potential for annexation was not included in the RHNA allocation methodology, a portion of the county's allocation may be transferred to the city pursuant to Government Code section 65584.07(d). This transfer of RHNA would require an amendment to the housing element to ensure that any additional RHNA can be accommodated on sites within the inventory.

[9] Sometimes called the AB 1233 consequence.

Sample Rezone Program:

To accommodate the remaining lower-income RHNA of 89 units, the City of X will identify and rezone a minimum of 4.5 acres of vacant land to the R3 zoning district, allowing exclusively residential uses and a minimum of 20 units per acre to a maximum of 30 units per acre by June 30, 2024. Rezoned sites will permit owner-occupied and rental multifamily uses by right pursuant to Government Code section 65583.2(i) for developments in which 20 percent or more of the units are affordable to lower income households and will be selected from sites 20 through 30 in the parcel listing (Appendix A). As reflected in Appendix A, each site has the capacity to accommodate at least 16 units and will be available for development in the planning period where water, sewer, and dry utilities can be provided.

Objective: Create opportunity for at least 89 units of multifamily housing for lower income households

Responsible Agency: Community Development Department

Timeline: Sites rezoned by June 30, 2024

Funding Source(s): General fund

Other program ideas for increasing capacity or facilitating development on identified sites:

- Up-zone existing neighborhoods in areas of opportunity or in high quality neighborhood transit areas at appropriate densities to facilitate development of housing.
- Increase maximum allowable residential densities in existing residential, commercial, and mixed-use zones and modify development standards, such as height limitations to ensure maximum density can be achieved.
- Establish minimum densities — Designate minimum densities of development to ensure that existing available land is not underutilized.
- Allow and encourage mixed-use zoning — Permit housing in certain nonresidential zones either as part of a mixed-use project or as a standalone residential use.
- Rezone underutilized land from nonresidential to residential to expand the supply of available residential land.
- Institute flexible zoning — Allow various residential uses within existing nonresidential zones without requiring rezoning or conditional approvals.
- Redevelop and/or recycle underutilized existing land to more intensive uses.
- Convert obsolete, older public/institutional/commercial/industrial buildings to residential use through adaptive reuse and/or historic preservation.
- Over-zone — Create a surplus of land for residential development during the current planning period of at least 20 percent more than the locality's share of the regional housing need. Over-zoning compensates for urban land left vacant due to ownership and development constraints and creates a real surplus. A sufficient supply of land beyond the time frame of the housing element helps prevent land shortages from bidding up land costs.
- Allow and promote small and irregular-size lot development.

- Consolidate lots — Facilitate combining small residential lots into larger lots to accommodate higher-density development.
- Increase height limitations — At a minimum, allow three stories in multifamily zones.
- Increase Floor Area Ratios — Allow for larger buildings on smaller lots and/or more units per lot by reducing the floor area ratio (total lot area divided by the total building area).
- Identify publicly owned land suitable for affordable housing development and sell parcels for $1 (with consideration of the Surplus Land Act as amended by AB 1486, Statutes of 2019).
- Facilitate development by encouraging staff outreach to owners of potential sites and affordable housing developers to discuss needs and constraints in the jurisdiction.
- Adopt incentives such as a super density bonus or by right approval for housing that meets community objectives, such as housing near transit, affordability, housing that meets the needs of special populations, etc.
- Adopt a specific plan that streamlines CEQA compliance.

Common Program Questions and Answers for Shortfall Zoning:

Q: How do I establish the density range for a rezone site?
A: The density range is set at the minimum density (either 16 or 20 dwelling units per acre, depending on the jurisdiction). While there is no specific maximum density requirement, the range must include the density that was identified as appropriate to accommodate housing affordable to lower-income households (Part B, Step 2).

However, jurisdictions should not set the minimum and maximum density range at the same density (e.g., 20 units per acre minimum as both a minimum and maximum density). If identifying a narrow density range, the housing element must analyze the range as a potential governmental constraint on housing development, including potential impacts resulting from site constraints, financial considerations, and other development factors.

Q: If a development is proposed with less than 20 percent affordability to lower income, can the jurisdiction approve it?
A: Yes, however, the project would not qualify for the by right provisions of this law unless the underlining zone already permitted housing by right. This, and all housing development projects, is subject to the Housing Accountability Act. In addition, the jurisdiction may be subject to No Net Loss Law provisions.

Q: How is the 20 percent calculated when State Density Bonus Law is added?
A: This 20 percent calculation is based upon the total number of units in the development including additional units provided by a density bonus. This calculation methodology is consistent with several other pieces of housing laws, including the Streamlined Ministerial Approval Process (Government Code section 65913.4) and the Housing Accountability Act.

ATTACHMENT 1: SUMMARY OF NEW LAWS REFERENCED IN THE GUIDEBOOK

AB 1397, Low (Chapter 375, Statutes of 2017): The law made a number of revisions to the site inventory analysis requirements of Housing Element Law. In particular, it requires stronger justification when nonvacant sites are used to meet housing needs, particularly for lower income housing, requires by right housing when sites are included in more than one housing element, and adds conditions around size of sites, among others.

AB 686, Santiago (Chapter 958, Statutes of 2018): The law ensures that public entities, including local governments, administer their programs relating to housing and urban development in a manner affirmatively to further the purposes of the federal Fair Housing Act and do not take any action that is materially inconsistent with its obligation to affirmatively further fair housing. It also requires that housing elements of each city and county promote and affirmatively further fair housing opportunities throughout the community for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act, Government Code Section 65008, and any other state and federal fair housing and planning law. AB 686 requires jurisdictions to conduct an assessment of fair housing in the housing element, prepare the housing element site inventory through the lens of affirmatively furthering fair housing, and include program(s) to affirmatively further fair housing.

SB 6, Beall (Chapter 667, Statutes of 2019): Jurisdictions are required to prepare the site inventory on forms developed by HCD and send an electronic version with their adopted housing element to HCD. HCD will then send those inventories to the Department of General Services by December 31 each year. The law (?) authorizes HCD to review, adopt, amend, and repeal the standards, forms, or definitions to implement this subdivision and subdivision (a) of Section 65583.

AB 1486, Ting (Chapter 644, Statutes of 2019): The law expanded the definition of surplus land and added additional requirements on the disposal of surplus land. In addition, local agencies must send notices of availability to interested entities on a list maintained by HCD. This list and notices of availability are maintained on HCD's website. Local agencies must also send a description of the notice and subsequent negotiations for the sale of the land, which HCD must review, and within 30 days submit written finding of violations of law. Violations of the Surplus Land Act can be referred to the Attorney General. Finally, it adds a requirement in Housing Element Law for the jurisdiction to identify which of the sites included in the inventory are surplus property.

ATTACHMENT 2: GOVERNMENT CODE SECTION 65583.2

As of January 1, 2020

(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the following standards set forth in subdivisions (c) and (g):

(1) Vacant sites zoned for residential use.

(2) Vacant sites zoned for nonresidential use that allows residential development.

(3) Residentially zoned sites that are capable of being developed at a higher density, including sites owned or leased by a city, county, or city and county.

(4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.

(b) The inventory of land shall include all of the following:

(1) A listing of properties by assessor parcel number.

(2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.

(3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.

(4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.

(5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.

(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate lower income housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. An unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, "site" means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction’s population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county’s housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low-income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on

Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for “suburban area” above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction’s population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city’s or county’s past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity’s valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right

for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marin Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(l) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

(Amended (as amended by Stats. 2018, Ch. 958, Sec. 3) by Stats. 2019, Ch. 664, Sec. 15.5. (AB 1486) Effective January 1, 2020. Repealed as of December 31, 2028, by its own provisions. See later operative version amended by Sec. 16.5 of Stats. 2019, Ch. 664.)

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Exhibit 3

April 23, 2020

MEMORANDUM FOR: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **AB 686 Summary of Requirements in Housing Element Law Government Code Section 8899.50, 65583(c)(5), 65583(c)(10), 65583.2(a)**

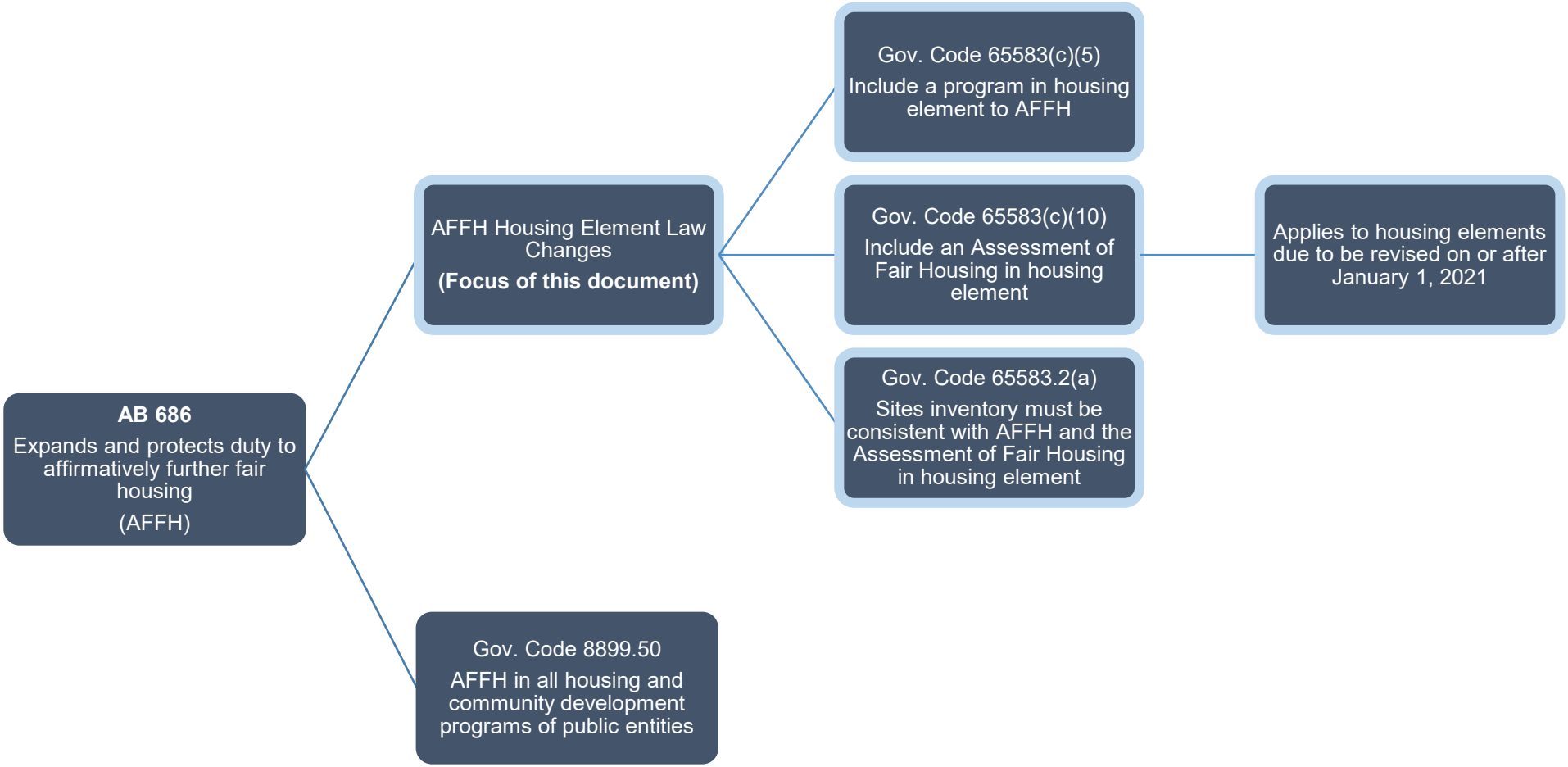
AB 686 creates new requirements for all state and local agencies (including, but not limited to, all cities, counties, cities and counties, and housing authorities) to ensure that their laws, programs and activities affirmatively further fair housing, and that they take no action inconsistent with this obligation. AB 686 also creates new requirements specifically in Housing Element Law, which is the focus of this document.

Beginning January 1, 2019, all housing elements must now include a program that promotes and affirmatively furthers fair housing opportunities throughout the community for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics protected by the California Fair Employment and Housing Act (FEHA), Government Code Section 65008, and any other state and federal fair housing and planning law.[1]

Additionally, all housing elements due on or after January 1, 2021, must contain an Assessment of Fair Housing (AFH) consistent with the core elements of the analysis required by the federal Affirmatively Furthering Fair Housing (AFFH) Final Rule of July 16, 2015.[2] Many important terms relevant to the AFH are defined in HUD's 2015 AFFH Rule.[3] The housing element land inventory and identification of sites must be consistent with a jurisdiction's duty to AFFH and the findings of its AFH.

Under state law, affirmatively further fair housing means "taking meaningful actions, in addition to combatting discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."[4]

[1] See page 10 for a list of applicable protected characteristics.
[2] Affirmatively Furthering Fair Housing, 80 Fed. Reg. 42,272 (July 16, 2015).
[3] 80 Fed. Reg. at 42,353-55.
[4] Gov. Code § 8899.50 (a)(1).


AB 686
Expands and protects duty to affirmatively further fair housing
(AFFH)
AFFH Housing Element Law Changes
(Focus of this document)
Gov. Code 65583(c)(5)
Include a program in housing element to AFFH
Gov. Code 65583(c)(10)
Include an Assessment of Fair Housing in housing element
Applies to housing elements due to be revised on or after January 1, 2021
Gov. Code 65583.2(a)
Sites inventory must be consistent with AFFH and the Assessment of Fair Housing in housing element
Gov. Code 8899.50
AFFH in all housing and community development programs of public entities

All housing elements must now include a program that promotes and affirmatively furthers fair housing opportunities throughout the community. AB 686 also requires that all housing elements due on or after January 1, 2021, must contain an Assessment of Fair Housing. Finally, the housing element land inventory and identification of sites must be consistent with a jurisdiction's duty to AFFH and the findings of its Assessment of Fair Housing. These requirements are detailed below.

1. **Include a Program that Affirmatively Furthers Fair Housing and Promotes Housing Opportunities throughout the Community for Protected Classes (applies to housing elements beginning January 1, 2019)**[5]

   A program to AFFH must include:

   - **a.** Meaningful Actions:[6] Affirmatively furthering fair housing (AFFH) includes taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity for all groups protected by state and federal law by:
     - **i.** Replacing segregated living patterns with integrated and balanced living patterns
     - **ii.** Transforming racially and ethnically concentrated areas of poverty into areas of opportunity (without displacement)
     - **iii.** Fostering and maintaining compliance with civil rights and fair housing laws
     - **iv.** Note: Meaningful actions include actions that will promote fair housing opportunities for low- and moderate- income tenants and tenants of affordable housing, including subsidized housing.

   - **b.** Timeline of Concrete Actions: As with other programs of the housing element, the program(s) to AFFH must include a schedule of concrete actions and a timeline for implementation.[7]

   - **c.** No Actions Inconsistent with AFFH: The jurisdiction must not take any action that is materially inconsistent with its obligation to affirmatively further fair housing.[8]
     - **i.** Existing state law requires that housing elements are internally consistent and that the housing element and the other components of a jurisdiction's General Plan are internally consistent.[9] AB 686 specifically requires that jurisdictions take no action that is materially inconsistent with its obligation to affirmatively further fair housing. Not only does this apply to other policies, programs, and actions in the housing element, and the other General Plan elements, it broadly applies to all of the jurisdiction's activities relating to housing and community development.[10]

[5] Gov. Code § 65583 (c)(5)
[6] Gov. Code § 8899.50 (a)(1)
[7] Gov. Code § 65583 (c)
[8] Gov. Code, § 65583 (c)(10)(A)
[9] Gov. Code § 65583 (c)(7)
[10] Gov. Code, § 8890.50 (b)

2. **Conduct an Assessment of Fair Housing**[11]
    a. AB 686 amended Government Code Section 65583 to include Section 65583 (c) (10) (A) (i) through (iv) which specifies the components of the required assessment of fair housing (AFH). These components are to be included in the appropriate existing sections required in a jurisdiction's housing element. Below, the components are organized by recommended housing element section:
        i. *Recommended Housing Element Section:* Needs Assessment
            1. (10) (A) (i). A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction's fair housing enforcement and outreach capacity.
            2. (10) (A) (ii). An analysis of available federal, state, and local data and local knowledge to identify:
                a. Integration and segregation patterns and trends
                b. Racially or ethnically concentrated areas of poverty
                c. Disparities in access to opportunity
                d. Disproportionate housing needs within the jurisdiction, including displacement risk. Analyze fair housing data, including standard publicly available data, as well as local data and knowledge. This analysis can be conducted in concert with other data collection and analysis that is conducted as part of the housing element needs assessment
            3. (10) (A) (iii). An assessment of the contributing factors for the fair housing issues identified under clause (ii).
        ii. *Recommended Housing Element Section:* Needs Assessment Or Constraints
            1. (10) (A) (iv). An identification of the jurisdiction's fair housing priorities and goals, with priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance. This requirement includes identification of metrics and milestones for determining what fair housing results will be achieved.
        ii. *Recommended Housing Element Section:* Programs
            1. (10) (A) (v). Strategies and actions to implement those priorities and goals identified in the housing needs assessment (per Section 65583 (c) (10) (A) (i-iii)). These strategies and actions may include, but are not limited to:[12]
                a. Enhancing mobility strategies and promoting inclusion for protected classes
                b. Encouraging development of new affordable housing in high-resource areas
                c. Place-based strategies to encourage community revitalization, including preservation of existing affordable housing
                d. Protecting existing residents from displacement
            2. These actions, taken together, must address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of

[11] Gov. Code, § 65583 (c)(10)
[12] See page 11 for further examples of strategies to AFFH.

opportunity, fostering and maintaining compliance with civil rights, and must affirmatively further fair housing.

b. Notes on AFH Preparation:

i. The AFH requirements shall be interpreted consistent with the Affirmatively Furthering Fair Housing (AFFH) Final Rule and accompanying commentary published by the United States Department of Housing and Urban Development contained in Volume 80 of the Federal Register, Number 136, pages 42272 to 42371, inclusive, dated July 16, 2015.[13]

1. HUD's AFFH Rule Guidebook (Dec. 2015) provides useful information about how to perform an AFH.

2. Amendment, suspension, or revocation of the HUD 2015 AFFH Rule does not impact the requirement under state law to interpret AFH requirements consistent with the 2015 AFFH Rule.

ii. Development of an AFH must include meaningful community participation, consultation, and coordination that is integrated with the broader stakeholder outreach and community participation process for the overall housing element. This engagement should be consistent with the requirements set forth in the AFFH Rule.[14] Key stakeholders and collaborators to consider:

1. Public Housing Authorities (PHAs) in California are subject to the general mandate of AB 686 (as well as the federal AFFH rule) and should collaborate with their housing element jurisdiction(s) as part of their AFFH obligation. Local jurisdictions should engage with their PHAs at the earliest opportunity to ensure that PHAs are an integral part of the jurisdiction's AFH analysis and goal setting.

2. Housing and community development providers and advocacy groups.

3. Community members that are members of protected classes and advocacy organizations that represent protected classes.

iii. Jurisdictions that have prepared an Analysis of Impediments to Fair Housing Choice (AI) or AFH in conjunction with their participation in federal housing programs may adapt relevant sections into their housing element AFH.[15] However, if the AI or AFH was not completed pursuant to the 2015 AFFH Final Rule, adaptation of the relevant sections may not be sufficient to meet the jurisdiction's obligations under section 65583(c)(10).

3. Prepare the Housing Element Land Inventory and Identification of Sites through the Lens of Affirmatively Furthering Fair Housing[16]

a. Prior to AB 686, Housing Element Law has required jurisdictions to identify adequate sites, appropriately zoned and available to accommodate its Regional Housing Need Allocation (RHNA). The housing element must demonstrate that there are adequate sites zoned for the development of housing for households at each income level sufficient to accommodate the number of new housing units needed at each income level as identified in the RHNA.

[13] Gov. Code, § 65583 (c) (10) (A), citing Gov. Code § 8899.50
[14] 24 CFR § 5.158
[15] Gov. Code, § 65583 (c)(10)(B)
[16] Gov. Code, § 65583.2 (a)

b. AB 686 now requires that a jurisdiction identify sites throughout the community, in a manner that is consistent with its duty to affirmatively further fair housing (AFFH) and the findings of its AFH, pursuant to Section 65583(c)(10)(A). In the context of AFFH, the site identification requirement involves not only an analysis of site capacity to accommodate the RHNA, but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity.[17] At the most basic level, this requirement suggests two courses of action relating to the identification of sites:

- **i.** Ensure that sites zoned to accommodate housing for lower-income households are not concentrated in lower resource areas and segregated concentrated areas of poverty, but rather dispersed throughout the community, including in areas with access to greater resources, amenities, and opportunity.
- **ii.** Where sites zoned to accommodate housing for lower-income households are located in lower resource areas and segregated concentrated areas of poverty, incorporating policies and programs in the housing element that are designed to remediate those conditions, including place-based strategies that create opportunity in areas of disinvestment (such as investments in enhanced infrastructure, services, schools, jobs, and other community needs).

[17] Gov. Code, § 8890.50 (b)

Supplemental Information

Statutory Language:

Government Code 8899.50

(a) For purposes of this section, the following terms have the following meanings:

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

(2) “Public agency” means all of the following:

(A) The state, including every state office, officer, department, division, bureau, board, and commission, including the California State University.

(B) A city, including a charter city, county, including a charter county, city and county, and a redevelopment successor agency.

(C) A public housing authority created pursuant to the Housing Authorities Law (Chapter 1 (commencing with Section 34200) of Part 2 of Division 24 of the Health and Safety Code).

(D) A public housing agency, as defined in the United States Housing Act of 1937 (codified at 42 U.S.C. Sec. 1437 et seq.), as amended.

(E) Any other political subdivision of the state that is a grantee or subgrantee receiving funds provided by the United States Department of Housing and Urban Development under the Community Development Block Grant program, the Emergency Solutions Grants program, the HOME Investment Partnerships program, or the Housing Opportunities for Persons With AIDS program.

(b) A public agency shall administer its programs and activities relating to housing and community development in a manner to affirmatively further fair housing, and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

(c) This section shall be interpreted consistent with the Affirmatively Furthering Fair Housing Final Rule and accompanying commentary published by the United States Department of Housing and Urban Development contained in Volume 80 of the Federal Register, Number 136, pages 42272 to 42371, inclusive, dated July 16, 2015. Subsequent amendment, suspension, or revocation of this Final Rule or its accompanying commentary by the federal government shall not impact the interpretation of this section.

(d) In selecting meaningful actions to fulfill the obligation to affirmatively further fair housing, this section does not require a public agency to take, or prohibit a public agency from taking, any one particular action.

Government Code 65583

The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

Government Code 65583(c)

(c) A program that sets forth a schedule of actions during the planning period, each with a timeline for implementation, that may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, the utilization of appropriate federal and state financing and subsidy programs when available, and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

Government Code 65583(c)(5)

(5) 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 protected by the California Fair Employment and Housing Act (Part 2.8 (commencing with Section 12900) of Division 3 of Title 2), Section 65008, and any other state and federal fair housing and planning law.

Government Code 65583(c)(10)

(10) (A) Affirmatively further fair housing in accordance with Chapter 15 (commencing with Section 8899.50) of Division 1 of Title 2. The program shall include an assessment of fair housing in the jurisdiction that shall include all of the following components:

(i) A summary of fair housing issues in the jurisdiction and an assessment of the jurisdiction’s fair housing enforcement and fair housing outreach capacity.

(ii) An analysis of available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk.

(iii) An assessment of the contributing factors for the fair housing issues identified under clause (ii).

(iv) An identification of the jurisdiction's fair housing priorities and goals, giving highest priority to those factors identified in clause (iii) that limit or deny fair housing choice or access to opportunity, or negatively impact fair housing or civil rights compliance, and identifying the metrics and milestones for determining what fair housing results will be achieved.

(v) Strategies and actions to implement those priorities and goals, which may include, but are not limited to, enhancing mobility strategies and encouraging development of new affordable housing in areas of opportunity, as well as place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement.

(B) A jurisdiction that completes or revises an assessment of fair housing pursuant to Subpart A (commencing with Section 5.150) of Part 5 of Subtitle A of Title 24 of the Code of Federal Regulations, as published in Volume 80 of the Federal Register, Number 136, page 42272, dated July 16, 2015, or an analysis of impediments to fair housing choice in accordance with the requirements of Section 91.225 of Title 24 of the Code of Federal Regulations in effect prior to August 17, 2015, may incorporate relevant portions of that assessment or revised assessment of fair housing or analysis or revised analysis of impediments to fair housing into its housing element.

(C) The requirements of this paragraph shall apply to housing elements due to be revised pursuant to Section 65588 on or after January 1, 2021.

Government Code 65583.2(a)

(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (10) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584.

Protected Classes Covered by the California Fair Employment and Housing Act

Race, color, national origin, religion, sex, familial status, disability, age, ancestry, sexual orientation, gender identity, gender expression, genetic information, marital status, citizenship status, veteran or military status

- UNRUH: primary language, or immigration status, citizenship status

  Covered under the Unruh Civil Rights Act, which applies to most housing accommodations in California.

Protected Classes Covered by Government Code Section 65008

- Race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information
- Government Code Section 65008 provides additional protections for income and financing characteristics in relation to planning and land use decisions:

  Local jurisdictions cannot take actions, enact or administer ordinances to deny or condition the enjoyment of residence, landownership, tenancy, or any other land use in the state because of:

  - The method of financing
  - The intended occupancy by persons who are very low, low, moderate, or middle income (income does not exceed 150 percent of the median income for the county)
  - Protected characteristics of the intended occupants

Protected Classes Covered by Federal Law

Race, color, religion, national origin, sex, familial status, disability

Examples of types of potential Affirmatively Furthering Fair Housing strategies include:

- Mobility-based strategies to provide better access to opportunities for all members of the community, particularly protected classes
- Strategies to encourage development of new affordable housing in high resource areas
- Place-based strategies to encourage community revitalization, including preservation of existing affordable housing, and protecting existing residents from displacement
- Strategies to improve enforcement of fair housing laws, community outreach and engagement capacity, and fair housing resources
- Strategies to stem the tide of displacement, including robust tenant protections
- Strategies to address wet and dry utility infrastructure and service deficiencies in disadvantaged communities
- Strategies to mitigate negative environmental, neighborhood, housing, and health impacts associated with the siting and operation of “Locally Unwanted Land Uses” (e.g., industrial, agricultural, agricultural processing, waste storage and processing, energy production land uses, etc.) in and around disadvantaged neighborhoods and communities
- Strategies to preserve mobilehome parks
- Strategies to promote a range of community-based housing options for people with disabilities
- Strategies to prevent discriminatory evictions (e.g., just cause eviction protections)
- Adoption of inclusionary housing policies and/or other policies to facilitate the development of deed-restricted affordable housing that is integrated with market-rate housing
- Strategies to ensure affordable housing opportunities for people who have criminal history
- Promotion of policies that encourage community ownership and stewardship of land to develop affordable housing, such as community land trust models
- As part of a larger anti-gentrification and anti-displacement strategy, adoption of policies that promote opportunities for tenants to purchase their buildings upon notification of an intent to sell by their landlords

    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(c)(3), including:

        Ensuring affordable housing complies with federal and state requirements to build units accessible to people with disabilities

        Developing a program to subsidize the cost of reasonable modifications to make housing accessible for people with disabilities

Examples of local policies that should be analyzed as potential impediments to fair housing choice:

    Nuisance and/or crime-free multi-housing ordinances

- Ordinances that restrict the siting of family child-care facilities
- Shelter standards that unduly restrict the siting of emergency shelters
- Policies that restrict or prohibit religious gatherings or other religious activities in residential areas
- Ordinances that restrict or prohibit the siting of board-and-care homes (licensed and unlicensed) and sober-living homes

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MEMORANDUM

DATE: January 10, 2020

TO: Planning Directors and Interested Parties

FROM: Zachary Olmstead, Deputy Director
Division of Housing Policy Development

SUBJECT: **Local Agency Accessory Dwelling Units**
Chapter 653, Statutes of 2019 (Senate Bill 13)
Chapter 655, Statutes of 2019 (Assembly Bill 68)
Chapter 657, Statutes of 2019 (Assembly Bill 587)
Chapter 178, Statutes of 2019 (Assembly Bill 670)
Chapter 658, Statutes of 2019 (Assembly Bill 671)
Chapter 659, Statutes of 2019 (Assembly Bill 881)

This memorandum is to inform you of the amendments to California law, effective January 1, 2020, regarding the creation of accessory dwelling units (ADU) and junior accessory dwelling units (JADU). Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Section 65852.2, 65852.22 and Health & Safety Code Section 17980.12) and further address barriers to the development of ADUs and JADUs. (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881).

This recent legislation, among other changes, addresses the following:

- Development standards shall not include requirements on minimum lot size (Section (a)(1)(B)(i)).
- Clarifies areas designated for ADUs may be based on water and sewer and impacts on traffic flow and public safety.
- Eliminates owner-occupancy requirements by local agencies (Section (a)(6) & (e)(1)) until January 1, 2025.
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1000 square feet if the ADU contains more than one bedroom (Section (c)(2)(B)).
- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement offstreet parking spaces cannot be required by the local agency (Section (a)(1)(D)(xi)).

- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Section (a)(3) and (b)).
- Clarifies "public transit" to include various means of transportation that charge set fees, run on fixed routes and are available to the public (Section (j)(10)).
- Establishes impact fee exemptions or limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees and impact fees for an ADU of 750 square feet or larger shall be proportional to the relationship of the ADU to the primary dwelling unit (Section (f)(3)).
- Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Section (j)(2)).
- Authorizes HCD to notify the local agency if the department finds that their ADU ordinance is not in compliance with state law (Section (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs as specified in Gov. Code Section 65583.1(a) and 65852.2(m).
- Permits JADUs without an ordinance adoption by a local agency (Section (a)(3), (b) and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code Section 65852.22).
- Allows upon application and approval, an owner of a substandard ADU 5 years to correct the violation, if the violation is not a health and safety issue, as determined by the enforcement agency (Section (n).
- Creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separate from the primary dwelling by allowing deed-restricted sales to occur. To qualify, the primary dwelling and the ADU are to be built by a qualified non-profit corporation whose mission is to provide units to low-income households (Gov. Code Section 65852.26).
- Removes covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).
- Requires local agency housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs (Gov. Code Section 65583 and Health and Safety Code Section 50504.5) (Attachment D).

For assistance, please see the amended statutes in Attachments A, B, C and D. HCD continues to be available to provide preliminary reviews of draft ADU ordinances to assist local agencies in meeting statutory requirements. In addition, pursuant to Gov. Code Section 65852.2(h), adopted ADU ordinances shall be submitted to HCD within 60 days of adoption. For more information and updates, please contact HCD's ADU team at adu@hcd.ca.gov.

ATTACHMENT A

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

(AB 881, AB 68 and SB 13 Accessory Dwelling Units)

(Changes noted in strikeout, underline/italics)

Effective January 1, 2020, Section 65852.2 of the Government Code is amended to read:

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily *dwelling residential* use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on ~~criteria that may include, but are not limited to,~~ the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. *A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.*

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, ~~lot coverage,~~ landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic ~~Places~~*. Resources. These standards shall not include requirements on minimum lot size.*

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The *accessory dwelling* unit may be rented separate from the primary residence, ~~buy~~ *but* may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily *dwelling residential* use and includes a proposed or existing ~~single-family~~ dwelling.

(iii) The accessory dwelling unit is either attached *to,* or located ~~within the living area of the~~ *within, the* proposed or existing primary ~~dwelling or~~ *dwelling, including attached garages, storage areas or similar uses, or an accessory structure or* detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) ~~The total area of floorspace of~~ *If there is an existing primary dwelling, the total floor area of* an attached accessory dwelling unit shall not exceed 50 percent of the ~~proposed or existing primary dwelling living area or 1,200 square feet~~*. existing primary dwelling*.

(v) The total *floor* area ~~of floorspace~~ for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing ~~garage~~ *living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure* that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five~~ *four* feet from the side and rear lot lines shall be required for an accessory dwelling

unit that is ~~constructed above a garage.~~ *not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.*
(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per *accessory dwelling* unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to ~~a~~ an accessory dwelling unit that is described in subdivision (d).
(xi) 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, ~~and~~ the local agency ~~requires~~ *shall not require* that those ~~offstreet~~ *offstreet* parking spaces be ~~replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d)~~*. replaced.*
(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.
(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(3) ~~When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application~~ *A permit application for an accessory dwelling unit or a junior accessory dwelling unit* shall be considered *and approved* ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use ~~permits, within 120 days after receiving the application~~. *permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.* A local agency may charge a fee to reimburse it for costs ~~that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature,~~ *incurred to implement this paragraph,* including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.
(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency ~~subsequent to the effective date of the act adding this paragraph~~ shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. ~~In the event that~~ *If* a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void ~~upon the effective date of the act adding this paragraph~~ and that agency shall thereafter apply the standards established in this

subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.
(5) No other local ordinance, policy, or regulation shall be the basis for the *delay or* denial of a building permit or a use permit under this subdivision.
(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ *used* or imposed, *including any owner-occupant requirement,* except that a local agency may require ~~an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or~~ that the property be used for rentals of terms longer than 30 days.
(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.
(8) An accessory dwelling unit that conforms to this subdivision 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 unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.
(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision ~~(a) within 120 days after receiving the application.~~ *(a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.*
(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.
(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:
(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.
(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:
(i) 850 square feet.
(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.
~~(c)~~ *(C)* ~~A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum~~ *Any other minimum* or maximum size for an accessory dwelling unit, ~~or~~ size based upon a percentage of the proposed or existing primary dwelling, ~~shall be established by ordinance~~ *or limits on lot coverage, floor area ratio, open space, and minimum lot size,* for either attached or detached dwellings that does not permit at least an ~~efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~ *800 square*

foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile *walking distance* of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) *(1)* Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit ~~to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.~~ *within a residential or mixed-use zone to create any of the following:*

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2) ~~Accessory~~ *An accessory* dwelling ~~units~~ *unit* shall not be considered by a local agency, special district, or water corporation to be a new residential use for ~~the~~ purposes of calculating connection fees or capacity charges for utilities, including water and sewer ~~service.~~ *service, unless the accessory dwelling unit was constructed with a new single-family dwelling.*
(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
~~(A)~~ *(4)* For an accessory dwelling unit described in *subparagraph (A) of paragraph (1) of* subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity ~~charge.~~ *charge, unless the accessory dwelling unit was constructed with a new single-family home.*
~~(B)~~ *(5)* For an accessory dwelling unit that is not described in *subparagraph (A) of paragraph (1) of* subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its ~~size~~ *square feet* or the number of its ~~plumbing fixtures,~~ *drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials,* upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
(h) ~~Local~~ *(1)* ~~agencies~~ *A local agency* shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. ~~The department may review and comment on this submitted ordinance.~~ *After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.*
(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time,

no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:
(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
~~(i)~~ *(j)* As used in this section, the following terms mean:
~~(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.~~
~~(2) "Local agency" means a city, county, or city and county, whether general law or chartered.~~
~~(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.~~
~~(4)~~ *(1)* "Accessory dwelling unit" means an attached or a detached residential dwelling unit ~~which~~ *that* provides complete independent living facilities for one or more ~~persons.~~ *persons and is located on a lot with a proposed or existing primary residence.* It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family *or multifamily* dwelling is *or will be* situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
~~(A)~~ *(3)* ~~An efficiency unit,~~ *"Efficiency unit" has the same meaning* as defined in Section 17958.1 of the Health and Safety Code.
~~(B)~~ *(4)* ~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~ *"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.*
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.
(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.
(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
~~(5)~~ *(8)* "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

~~(6)~~ *(11)* "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

~~(j)~~ *(l)* Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Becomes operative on January 1, 2025)
Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

65852.2.
(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit

that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) 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 local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts ~~an~~ on ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or ~~imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.~~ imposed except that, *subject to subparagraph (B)*, a local agency may require *an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or* that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision 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 unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms,

passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

~~(5)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

~~(6)~~ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, “impact fee” has the same meaning as the term “fee” is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. “Impact fee” does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or

separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home~~ dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed

or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

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

(2) “Accessory structure” means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) “Efficiency unit” has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) “Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) “Local agency” means a city, county, or city and county, whether general law or chartered.

(6) “Neighborhood” has the same meaning as set forth in Section 65589.5.

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

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

(7) “Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

(8) “Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) “Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) “Tandem parking” means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit

for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed~~ *become operative on January 1, 2025.*

Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in strikeout, underline/italics) (AB 68 (Ting)):

65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence ~~already built~~ *built, or proposed to be built,* on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the ~~existing~~ walls of the ~~structure, and require the inclusion of an existing bedroom.~~ *proposed or existing single-family residence.*

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the ~~structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ *proposed or existing single-family residence.*

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

~~(A) A sink with a maximum waste line diameter of 1.5 inches.~~

~~(B)~~ *(A)* A cooking facility with ~~appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ *appliances.*

~~(C)~~ *(B)* A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine ~~whether~~ *if* the junior accessory dwelling unit ~~is in compliance~~ *complies* with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. ~~A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section.~~ *The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the*

applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.
(d) For ~~the~~ purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.
(e) For ~~the~~ purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.
(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.
(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.
~~(g)~~ *(h)* For purposes of this section, the following terms have the following meanings:
(1) “Junior accessory dwelling unit” means a unit that is no more than 500 square feet in size and contained entirely within ~~an existing~~ *a* single-family ~~structure.~~ *residence*. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
(2) “Local agency” means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:

(A) The accessory dwelling unit was built before January 1, 2020.

(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.

(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.

(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).

(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.

(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

ATTACHMENT B

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units

(Changes noted in underline/italics)

Effective January 1, 2020 Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

ATTACHMENT C

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units

(Changes noted in underline/italics)

Effective January 1, 2020, Section 4751 is added to the Civil Code, to read (AB 670 (Friedman)):

4751.

(a) Any covenant, restriction, or condition 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 either 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 requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

ATTACHMENT D

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6
AB 671 Accessory Dwelling Units

(Changes noted in underline/italics)

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).
Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.
(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.
(b) The list shall be posted on the department's internet website by December 31, 2020.
(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

Images courtesy of PrefabADU and HCD

California Department of Housing and Community Development

Accessory Dwelling Unit Handbook

September 2020

Where foundations begin

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Understanding Accessory Dwelling Units (ADUs) and Their Importance

California's housing production is not keeping pace with demand. In the last decade, less than half of the homes needed to keep up with the population growth were built. Additionally, new homes are often constructed away from job-rich areas. This lack of housing that meets people's needs is impacting affordability and causing average housing costs, particularly for renters in California, to rise significantly. As affordable housing becomes less accessible, people drive longer distances between housing they can afford and their workplace or pack themselves into smaller shared spaces, both of which reduce the quality of life and produce negative environmental impacts.

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Beyond traditional construction, widening the range of housing types can increase the housing supply and help more low-income Californians thrive. Examples of some of these housing types are Accessory Dwelling Units (ADUs - also referred to as second units, in-law units, casitas, or granny flats) and Junior Accessory Dwelling Units (JADUs).

What is an ADU?

An ADU is an accessory dwelling unit with complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.
- Junior Accessory Dwelling Unit (JADU): A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence.

ADUs tend to be significantly less expensive to build and offer benefits that address common development barriers such as affordability and environmental quality. Because ADUs must be built on lots with existing or proposed housing, they do not require paying for new land, dedicated parking or other costly infrastructure required to build a new single-family home. Because they are contained inside existing single-family homes, JADUs require relatively

modest renovations and are much more affordable to complete. ADUs are often built with cost-effective one or two-story wood frames, which are also cheaper than other new homes. Additionally, prefabricated ADUs can be directly purchased and save much of the time and money that comes with new construction. ADUs can provide as much living space as apartments and condominiums and work well for couples, small families, friends, young people, and seniors.

Much of California's housing crisis comes from job-rich, high-opportunity areas where the total housing stock is insufficient to meet demand and exclusionary practices have limited housing choice and inclusion. Professionals and students often prefer living closer to jobs and amenities rather than spending hours commuting. Parents often want better access to schools and do not necessarily require single-family homes to meet their needs. There is a shortage of affordable units, and the units that are available can be out of reach for many people. To address our state's needs, homeowners can construct an ADU on their lot or convert an underutilized part of their home into a JADU. This flexibility benefits both renters and homeowners who can receive extra monthly rent income.

ADUs also give homeowners the flexibility to share independent living areas with family members and others, allowing seniors to age in place as they require more care, thus helping extended families stay together while maintaining privacy. The space can be used for a variety of reasons, including adult children who can pay off debt and save up for living on their own.

New policies are making ADUs even more affordable to build, in part by limiting the development impact fees and relaxing zoning requirements. A 2019 study from the Terner Center on Housing Innovation noted that one unit of affordable housing in the Bay Area costs about $450,000. ADUs and JADUs can often be built at a fraction of that price and homeowners may use their existing lot to create additional housing, without being required to provide additional infrastructure. Often the rent generated from the ADU can pay for the entire project in a matter of years.

ADUs and JADUs are a flexible form of housing that can help Californians more easily access job-rich, high-opportunity areas. By design, ADUs are more affordable and can provide additional income to homeowners. Local governments can encourage the development of ADUs and improve access to jobs, education, and services for many Californians.

Summary of Recent Changes to Accessory Dwelling Unit Laws

In Government Code Section 65852.150, the California Legislature found and declared that, among other things, allowing accessory dwelling units (ADUs) in zones that allow single-family and multifamily uses provides additional rental housing, and is an essential component in addressing California's housing needs. Over the years, ADU law has been revised to improve its effectiveness at creating more housing units. Changes to ADU laws effective January 1, 2020, further reduce barriers, better streamline approval processes, and expand capacity to accommodate the development of ADUs and junior accessory dwelling units (JADUs).

ADUs are a unique opportunity to address a variety of housing needs and provide affordable housing options for family members, friends, students, the elderly, in-home health care providers, people with disabilities, and others. Further, ADUs offer an opportunity to maximize and integrate housing choices within existing neighborhoods.

Within this context, the California Department of Housing and Community Development (HCD) has prepared this guidance to assist local governments, homeowners, architects, and the general public in encouraging the development of ADUs. Please see Attachment 1 for the complete statutory changes. The following is a summary of legislation since 2019 that amended ADU law and became effective as of January 1, 2020.

AB 68 (Ting), AB 881 (Bloom), and SB 13 (Wieckowski)

Chapter 653, Statutes of 2019 (Senate Bill 13, Section 3), Chapter 655, Statutes of 2019 (Assembly Bill 68, Section 2) and Chapter 659 (Assembly Bill 881, Section 1.5 and 2.5) build upon recent changes to ADU and JADU law (Government Code Sections 65852.2, 65852.22 and further address barriers to the development of ADUs and JADUs) (Attachment A includes the combined ADU statute updates from SB 13, AB 68 and AB 881.)

This recent legislation, among other changes, addresses the following:

- Prohibits local agencies from including in development standards for ADUs requirements on minimum lot size (Gov. Code, § 65852.2, subd. (a)(1)(B)(i)).
- Clarifies areas designated by local agencies for ADUs may be based on the adequacy of water and sewer services as well as impacts on traffic flow and public safety (Gov. Code, § 65852.2, subd. (a)(1)(A)).
- Eliminates all owner-occupancy requirements by local agencies for ADUs approved between January 1, 2020 and January 1, 2025 ((Gov. Code, § 65852.2, subd. (a)(6)).
- Prohibits a local agency from establishing a maximum size of an ADU of less than 850 square feet, or 1,000 square feet if the ADU contains more than one bedroom and requires approval of a permit to build an ADU of up to 800 square feet ((Gov. Code, § 65852.2, subd. (c)(2)(B) & (C)).

- Clarifies that when ADUs are created through the conversion of a garage, carport or covered parking structure, replacement off-street parking spaces cannot be required by the local agency (Gov. Code, § 65852.2, subd. (a)(1)(D)(xi)).
- Reduces the maximum ADU and JADU application review time from 120 days to 60 days (Gov. Code, § 65852.2, subd. (a)(3) and (b)).
- Clarifies that "public transit" includes various means of transportation that charge set fees, run on fixed routes and are available to the public (Gov. Code, § 65852.2, subd. (j)(10)).
- Establishes impact fee exemptions and limitations based on the size of the ADU. ADUs up to 750 square feet are exempt from impact fees (Government Code Section 65852.2, Subdivision (f)(3)); ADUs that are 750 square feet or larger may be charged impact fees but only such fees that are proportional in size (by square foot) to those for the primary dwelling unit (Gov. Code, § 65852.2, subd. (f)(3)).
- Defines an "accessory structure" to mean a structure that is accessory or incidental to a dwelling on the same lot as the ADU (Gov. Code, § 65852.2, subd. (j)(2)).
- Authorizes HCD to notify the local agency if HCD finds that their ADU ordinance is not in compliance with state law (Gov. Code, § 65852.2, subd. (h)(2)).
- Clarifies that a local agency may identify an ADU or JADU as an adequate site to satisfy RHNA housing needs (Gov. Code § 65583.1, subd. (a), and § 65852.2, subd. (m)).
- Permits JADUs even where a local agency has not adopted an ordinance expressly authorizing them (Gov. Code, § 65852.2, subd. (a)(3), (b), and (e)).
- Allows a permitted JADU to be constructed within the walls of the proposed or existing single-family residence and eliminates the required inclusion of an existing bedroom or an interior entry into the single-family residence (Gov. Code § 65852.22, subd. (a)(4); Former Gov. Code § 65852.22, subd. (a)(5)).
- Requires, upon application and approval, a local agency to delay enforcement against a qualifying substandard ADU for five (5) years to allow the owner to correct the violation, so long as the violation is not a health and safety issue, as determined by the enforcement agency (Gov. Code, § 65852.2, subd. (n); Health and Safety Code § 17980.12).

AB 587 (Friedman), AB 670 (Friedman), and AB 671 (Friedman)

In addition to the legislation listed above, AB 587 (Chapter 657, Statutes of 2019), AB 670 (Chapter 178, Statutes of 2019), and AB 671 (Chapter 658, Statutes of 2019) also have an impact on state ADU law, particularly through Health and Safety Code Section 17980.12. These recent pieces of legislation, among other changes, address the following:

- AB 587 creates a narrow exemption to the prohibition for ADUs to be sold or otherwise conveyed separately from the primary dwelling by allowing deed-restricted sales to occur if the local agency adopts an ordinance. To qualify, the primary dwelling and the ADU are to be built by a qualified nonprofit corporation whose mission is to provide units to low-income households (Gov. Code § 65852.26).
- AB 670 provides that covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or unreasonably restrict the construction or use of an ADU or JADU on a lot zoned for single-family residential use are void and unenforceable (Civil Code Section 4751).

- AB 671 requires local agencies' housing elements to include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires HCD to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code § 65583; Health and Safety Code § 50504.5)

Frequently Asked Questions: Accessory Dwelling Units[1]

1. Legislative Intent

- **Should a local ordinance encourage the development of accessory dwelling units?**

  Yes. Pursuant to Government Code Section 65852.150, the California Legislature found and declared that, among other things, California is facing a severe housing crisis and ADUs are a valuable form of housing that meets the needs of family members, students, the elderly, in-home health care providers, people with disabilities and others. Therefore, ADUs are an essential component of California's housing supply.

  ADU law and recent changes intend to address barriers, streamline approval, and expand potential capacity for ADUs, recognizing their unique importance in addressing California's housing needs. The preparation, adoption, amendment, and implementation of local ADU

Government Code 65852.150:

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

(1) Accessory dwelling units are a valuable form of housing in California.

(2) Accessory dwelling units provide housing for family members, students, the elderly, in-home health care providers, the disabled, and others, at below market prices within existing neighborhoods.

(3) Homeowners who create accessory dwelling units benefit from added income, and an increased sense of security.

(4) Allowing accessory dwelling units in single-family or multifamily residential zones provides additional rental housing stock in California.

(5) California faces a severe housing crisis.

(6) The state is falling far short of meeting current and future housing demand with serious consequences for the state's economy, our ability to build green infill consistent with state greenhouse gas reduction goals, and the well-being of our citizens, particularly lower and middle-income earners.

(7) Accessory dwelling units offer lower cost housing to meet the needs of existing and future residents within existing neighborhoods, while respecting architectural character.

(8) Accessory dwelling units are, therefore, an essential component of California's housing supply.

(b) It is the intent of the Legislature that an accessory dwelling unit ordinance adopted by a local agency has the effect of providing for the creation of accessory dwelling units and that provisions in this ordinance relating to matters including unit size, parking, fees, and other requirements, are not so arbitrary, excessive, or burdensome so as to unreasonably restrict the ability of homeowners to create accessory dwelling units in zones in which they are authorized by local ordinance.

[1] Note: Unless otherwise noted, the Government Code section referenced is 65852.2.

ordinances must be carried out consistent with Government Code, Section 65852.150 and must not unduly constrain the creation of ADUs. Local governments adopting ADU ordinances should carefully weigh the adoption of zoning, development standards, and other provisions for impacts on the development of ADUs.

In addition, ADU law is the statutory minimum requirement. Local governments may elect to go beyond this statutory minimum and further the creation of ADUs. Many local governments have embraced the importance of ADUs as an important part of their overall housing policies and have pursued innovative strategies. (Gov. Code, § 65852.2, subd. (g)).

2. Zoning, Development and Other Standards

A) Zoning and Development Standards

- **Are ADUs allowed jurisdiction wide?**

No. ADUs proposed pursuant to subdivision (e) must be considered in any residential or mixed-use zone. For other ADUs, local governments may, by ordinance, designate areas in zones where residential uses are permitted that will also permit ADUs. However, any limits on where ADUs are permitted may only be based on the adequacy of water and sewer service, and the impacts on traffic flow and public safety. Further, local governments may not preclude the creation of ADUs altogether, and any limitation should be accompanied by detailed findings of fact explaining why ADU limitations are required and consistent with these factors.

Examples of public safety include severe fire hazard areas and inadequate water and sewer service and includes cease and desist orders. Impacts on traffic flow should consider factors like lesser car ownership rates for ADUs and the potential for ADUs to be proposed pursuant to Government Code section 65852.2, subdivision (e). Finally, local governments may develop alternative procedures, standards, or special conditions with mitigations for allowing ADUs in areas with potential health and safety concerns. (Gov. Code, § 65852.2, subd. (e))

Residential or mixed-use zone should be construed broadly to mean any zone where residential uses are permitted by-right or by conditional use.

- **Can a local government apply design and development standards?**

Yes. A local government may apply development and design standards that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards shall be sufficiently objective to allow ministerial review of an ADU. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

ADUs created under subdivision (e) of Government Code 65852.2 shall not be subject to design and development standards except for those that are noted in the subdivision.

What does objective mean?

"objective zoning standards" and "objective design review standards" mean standards that involve no personal or subjective judgment by a public official and are 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 prior to submittal. Gov Code § 65913.4, subd. (a)(5)

ADUs that do not meet objective and ministerial development and design standards may still be permitted through an ancillary discretionary process if the applicant chooses to do so. Some jurisdictions with compliant ADU ordinances apply additional processes to further the creation of ADUs that do not otherwise comply with the minimum standards necessary for ministerial review. Importantly, these processes are intended to provide additional opportunities to create ADUs that would not otherwise be permitted, and a discretionary process may not be used to review ADUs that are fully compliant with ADU law. Examples of these processes include areas where additional health and safety concerns must be considered, such as fire risk.

- **Can ADUs exceed general plan and zoning densities?**

  Yes. An ADU is an accessory use for the purposes of calculating allowable density under the general plan and zoning that does not count toward the allowable density. For example, if a zoning district allows one unit per 7,500 square feet, then an ADU would not be counted as an additional unit. Further, local governments could elect to allow more than one ADU on a lot, and ADUs are automatically a residential use deemed consistent with the general plan and zoning. (Gov. Code, § 65852.2, subd. (a)(1)(C))

- **Are ADUs permitted ministerially?**

  Yes. ADUs must be considered, approved, and permitted ministerially, without discretionary action. Development and other decision-making standards must be sufficiently objective to allow for ministerial review. Examples include numeric and fixed standards such as heights or setbacks or design standards such as colors or materials. Subjective standards require judgement and can be interpreted in multiple ways such as privacy, compatibility with neighboring properties or promoting harmony and balance in the community; subjective standards shall not be imposed for ADU development. Further, ADUs must not be subject to a hearing or any ordinance regulating the issuance of variances or special use permits and must be considered ministerially. (Gov. Code, § 65852.2, subd. (a)(3))

- **Can I create an ADU if I have multiple detached dwellings on a lot?**

  Yes. A lot where there are currently multiple detached single-family dwellings is eligible for creation of one ADU per lot by converting space within the proposed or existing space of a single-family dwelling or existing structure and a new construction detached ADU subject to certain development standards.

- **Can I build an ADU in a historic district, or if the primary residence is subject to historic preservation?**

  Yes. ADUs are allowed within a historic district, and on lots where the primary residence is subject to historic preservation. State ADU law allows for a local agency to impose standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. However, these standards do not apply to ADUs proposed pursuant to Gov. Code § 65852.2, subd. (e).

As with non-historic resources, a jurisdiction may impose objective and ministerial standards that are sufficiently objective to be reviewed ministerially and do not unduly burden the creation of ADUs. Jurisdictions are encouraged to incorporate these standards into their ordinance and submit these standards along with their ordinance to HCD. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i) & (a)(5))

B) Size Requirements

- **Is there a minimum lot size requirement?**

No. While local governments may impose standards on ADUs, these standards shall not include minimum lot size requirements. Further, lot coverage requirements cannot preclude the creation of a statewide exemption ADU (800 square feet ADU with a height limitation of 16 feet and 4 feet side and rear yard setbacks). If lot coverage requirements do not allow such an ADU, an automatic exception or waiver should be given to appropriate development standards such as lot coverage, floor area or open space requirements. Local governments may continue to enforce building and health and safety standards and may consider design, landscape, and other standards to facilitate compatibility.

What is a Statewide Exemption ADU?
A statewide exemption ADU is an ADU of up to 800 square feet, 16 foot in height and with 4-foot side and rear yard setbacks. ADU law requires that no lot coverage, floor area ratio, open space, or minimum lot size will preclude the construction of a statewide exemption ADU. Further, ADU law allows the construction of a detached new construction statewide exemption ADU to be combined with a JADU within any zone allowing residential or mixed uses regardless of zoning and development standards imposed in an ordinance. See more discussion below.

- **Can minimum and maximum unit sizes be established for ADUs?**

Yes. A local government may, by ordinance, establish minimum and maximum unit size requirements for both attached and detached ADUs. However, maximum unit size requirements must be at least 850 square feet and 1,000 square feet for ADUs with more than one bedroom. For local agencies without an ordinance, maximum unit sizes are 1,200 square feet for a new detached ADU and up to 50 percent of the floor area of the existing primary dwelling for an attached ADU (at least 800 square feet). Finally, the local agency must not establish by ordinance a minimum square footage requirement that prohibits an efficiency unit, as defined in Health and Safety Code § 17958.1.

The conversion of an existing accessory structure or a portion of the existing primary residence to an ADU is not subject to size requirements. For example, an existing 3,000 square foot barn converted to an ADU would not be subject to the size requirements, regardless if a local government has an adopted ordinance. Should an applicant want to expand an accessory structure to create an ADU beyond 150 square feet, this ADU would be subject to the size maximums outlined in state ADU law, or the local agency's adopted ordinance.

- **Can a percentage of the primary dwelling be used for a maximum unit size?**

Yes. Local agencies may utilize a percentage (e.g., 50 percent) of the primary dwelling as a maximum unit size for attached or detached ADUs but only if it does not restrict an ADU's size to less than the standard of at least 850 sq. ft (or at least 1000 square feet. for ADUs with more than one bedroom). Local agencies must not, by ordinance, establish any other minimum or maximum unit sizes, including based on a percentage of the primary dwelling, that precludes a statewide exemption ADU. Local agencies utilizing

percentages of primary dwelling as maximum unit sizes could consider multi-pronged standards to help navigate these requirements (e.g., shall not exceed 50 percent of the dwelling or 1,000 square feet, whichever is greater).

- **Can maximum unit sizes exceed 1,200 square feet for ADUs?**

Yes. Maximum unit sizes, by ordinance, can exceed 1,200 square feet for ADUs. ADU law does not limit the authority of local agencies to adopt less restrictive requirements for the creation of ADUs (Gov. Code, § 65852.2, subd. (g)).

Larger unit sizes can be appropriate in a rural context or jurisdictions with larger lot sizes and is an important approach to creating a full spectrum of ADU housing choices.

C) Parking Requirements

- **Can parking requirements exceed one space per unit or bedroom?**

No. Parking requirements for ADUs shall not exceed one parking space per unit or bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway. Guest parking spaces shall not be required for ADUs under any circumstances.

What is Tandem Parking? Tandem parking means two or more automobiles that are parked on a driveway or in any other location on a lot, lined up behind one another. (Gov. Code, § 65852.2, subd. (a)(1)(D)(x)(I) and (j)(11))

Local agencies may choose to eliminate or reduce parking requirements for ADUs such as requiring zero or half a parking space per each ADU.

- **Is flexibility for siting parking required?**

Yes. Local agencies should consider flexibility when siting parking for ADUs. Offstreet parking spaces for the ADU shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made. Specific findings must be based on specific site or regional topographical or fire and life safety conditions.

When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU, or converted to an ADU, the local agency shall not require that those offstreet parking spaces for the primary unit be replaced. (Gov. Code, § 65852.2, subd. (a)(D)(xi))

- **Can ADUs be exempt from parking?**

Yes. A local agency shall not impose ADU parking standards for any of the following, pursuant to Gov. Code § 65852.2, subd. (d)(1-5) and (j)(10))

(1) Accessory dwelling unit is located within one-half mile walking distance of public transit.
(2) Accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) Accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

Note: For the purposes of state ADU law, a jurisdiction may use the designated areas where a car share vehicle may be accessed. Public transit is any location where an individual may access buses, trains, subways and other forms of transportation that charge set fares, run on fixed routes and are available to the general public. Walking distance is defined as the pedestrian shed to reach public transit. Additional parking requirements to avoid impacts to public access may be required in the coastal zone.

D) Setbacks

- **Can setbacks be required for ADUs?**

Yes. A local agency may impose development standards, such as setbacks, for the creation of ADUs. Setbacks may include front, corner, street, and alley setbacks. Additional setback requirements may be required in the coastal zone if required by a local coastal program. Setbacks may also account for utility easements or recorded setbacks. However, setbacks must not unduly constrain the creation of ADUs and cannot be required for ADUs proposed pursuant to subdivision (e). Further, a setback of no more than four feet from the side and rear lot lines shall be required for an attached or detached ADU. (Gov. Code, § 65852.2, subd. (a)(1)(D)(vii))

A local agency may also allow the expansion of a detached structure being converted into an ADU when the existing structure does not have four-foot rear and side setbacks. A local agency may also allow the expansion area of a detached structure being converted into an ADU to have no setbacks, or setbacks of less than four feet, if the existing structure has no setbacks, or has setbacks of less than four feet. A local agency shall not require setbacks of more than four feet for the expanded area of a detached structure being converted into an ADU.

A local agency may still apply front yard setbacks for ADUs, but front yard setbacks cannot preclude a statewide exemption ADU and must not unduly constrain the creation of all types of ADUs. (Gov. Code, § 65852.2, subd. (c))

E) Height Requirements

- **Is there a limit on the height of an ADU or number of stories?**

Not in state ADU law, but local agencies may impose height limits provided that the limit is no less than 16 feet. (Gov. Code, § 65852.2, subd. (a)(1)(B)(i))

F) Bedrooms

- **Is there a limit on the number of bedrooms?**

State ADU law does not allow for the limitation on the number of bedrooms of an ADU. A limit on the number of bedrooms could be construed as a discriminatory practice towards protected classes, such as familial status, and would be considered a constraint on the development of ADUs.

G) Impact Fees

- **Can impact fees be charged for an ADU less than 750 square feet?**

No. An ADU is exempt from incurring impact fees from local agencies, special districts, and water corporations if less than 750 square feet. Should an ADU be 750 square feet or larger, impact fees shall be charged proportionately in relation to the square footage of the ADU to the square footage of the primary dwelling unit.

> What is "Proportionately"?
>
> "Proportionately" is some amount that corresponds to a total amount, in this case, an impact fee for a single-family dwelling. For example, a 2,000 square foot primary dwelling with a proposed 1,000 square foot ADU could result in 50 percent of the impact fee that would be charged for a new primary dwelling on the same site. In all cases, the impact fee for the ADU must be less than the primary dwelling. Otherwise, the fee is not calculated proportionately. When utilizing proportions, careful consideration should be given to the impacts on costs, feasibility, and ultimately, the creation of ADUs. In the case of the example above, anything greater than 50 percent of the primary dwelling could be considered a constraint on the development of ADUs.

For purposes of calculating the fees for an ADU on a lot with a multifamily dwelling, the proportionality shall be based on the average square footage of the units within that multifamily dwelling structure. For ADUs converting existing space with a 150 square foot expansion, a total ADU square footage over 750 square feet could trigger the proportionate fee requirement. (Gov. Code, § 65852.2, subd. (f)(3)(A))

- **Can local agencies, special districts or water corporations waive impact fees?**

Yes. Agencies can waive impact and any other fees for ADUs. Also, local agencies may also use fee deferrals for applicants.

- **Can school districts charge impact fees?**

Yes. School districts are authorized but do not have to levy impact fees for ADUs greater than 500 square feet pursuant to Section 17620 of the Education Code. ADUs less than 500 square feet are not subject to school impact fees. Local agencies are encouraged to coordinate with school districts to carefully weigh the importance of promoting ADUs, ensuring appropriate nexus studies and appropriate fees to facilitate construction or reconstruction of adequate school facilities.

- **What types of fees are considered impact fees?**

Impact fees charged for the construction of ADUs must be determined in accordance with the Mitigation Fee Act and generally include any monetary exaction that is charged by a local agency in connection with the approval of an ADU, including impact fees, for the purpose of defraying all or a portion of the cost of public facilities relating to the ADU. A local agency, special district or water corporation shall not consider ADUs as a new residential use for the purposes of calculating connection fees or capacity charges for utilities, including water and sewer services. However, these provisions do not apply to ADUs that are constructed concurrently with a new single-family home (Gov. Code, § 65852.2, subd. (f) and Government Code § 66000)

- **Can I still be charged water and sewer connection fees?**

ADUs converted from existing space and JADUs shall not be considered by a local agency, special district or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, unless constructed with a new single-family dwelling. The connection fee or capacity charge shall be proportionate to the burden of the proposed ADU, based on its square footage or plumbing fixtures as compared to the primary dwelling. State ADU law does not cover monthly charge fees. (Gov. Code, § 65852.2, subd. (f)(2)(A))

H) Conversion of Existing Space in Single Family, Accessory and Multifamily Structures and Other Statewide Permissible ADUs (Subdivision (e))

- **Are local agencies required to comply with subdivision (e)?**

Yes. All local agencies must comply with subdivision (e). This subdivision requires the ministerial approval of ADUs within a residential or mixed-use zone. The subdivision creates four categories of ADUs that should not be subject to other specified areas of ADU law, most notably zoning and development standards. For example, ADUs under this subdivision should not have to comply with lot coverage, setbacks, heights, and unit sizes. However, ADUs under this subdivision must meet the building code and health and safety requirements. The four categories of ADUs under subdivision (e) are:

a. One ADU or JADU per lot within the existing space of a single-family dwelling, or an ADU within an accessory structure that meets specified requirements such as exterior access and setbacks for fire and safety.
b. One detached new construction ADU that does not exceed four-foot side and rear yard setbacks. This ADU may be combined on the same lot with a JADU and may be required to meet a maximum unit size requirement of 800 square feet and a height limitation of 16 feet.
c. Multiple ADUs within the portions of multifamily structures that are not used as livable space. Local agencies must allow at least one of these types of ADUs and up to 25 percent of the existing multifamily structures.
d. Up to two detached ADUs on a lot that has existing multifamily dwellings that are subject to height limits of 16 feet and 4-foot rear and side yard setbacks.

The above four categories are not required to be combined. For example, local governments are not required to allow (a) and (b) together or (c) and (d) together. However, local agencies may elect to allow these ADU types together.

Local agencies shall allow at least one ADU to be created within the non-livable space within multifamily dwelling structures, or up to 25 percent of the existing multifamily dwelling units within a structure and may also allow not more than two ADUs on the lot detached from the multifamily dwelling structure. New detached units are subject to height limits of 16 feet and shall not be required to have side and rear setbacks of more than four feet.

The most common ADU that can be created under subdivision (e) is a conversion of proposed or existing space of a single-family dwelling or accessory structure into an ADU, without any prescribed size limitations, height, setback, lot coverage, architectural review, landscape, or other development standards. This would enable the conversion of an accessory structure, such as a 2,000 square foot garage, to an ADU without any additional requirements other than compliance with building standards for dwellings. These types of ADUs are also eligible for a 150 square foot expansion (see discussion below).

ADUs created under subdivision (e) shall not be required to provide replacement or additional parking. Moreover, these units shall not, as a condition for ministerial approval, be required to correct any existing or created nonconformity. Subdivision (e) ADUs shall be required to be rented for terms longer than 30 days, and only require fire sprinklers if fire sprinklers are required for the primary residence. These ADUs

shall not be counted as units when calculating density for the general plan and are not subject to owner-occupancy.

- **Can I convert my accessory structure into an ADU?**

  Yes. The conversion of garages, sheds, barns, and other existing accessory structures, either attached or detached from the primary dwelling, into ADUs is permitted and promoted through the state ADU law. These conversions of accessory structures are not subject to any additional development standard, such as unit size, height, and lot coverage requirements, and shall be from existing space that can be made safe under Building and Safety Codes. A local agency should not set limits on when the structure was created, and the structure must meet standards for Health & Safety. Finally, local governments may also consider the conversion of illegal existing space and could consider alternative building standards to facilitate the conversion of existing illegal space to minimum life and safety standards.

- **Can an ADU converting existing space be expanded?**

  Yes. An ADU within the existing or proposed space of a single-family dwelling can be expanded 150 square feet beyond the physical dimensions of the structure but shall be limited to accommodating ingress and egress. An example of where this expansion could be applicable is for the creation of a staircase to reach a second story ADU. These types of ADUs shall conform to setbacks sufficient for fire and safety.

  A local agency may allow for an expansion beyond 150 square feet, though the ADU would have to comply with the size maximums as per state ADU law, or a local agency's adopted ordinance.

  As a JADU is limited to being created within the walls of a primary residence, this expansion of up to 150 square feet does not pertain to JADUs.

I) Nonconforming Zoning Standards

- **Does the creation of an ADU require the applicant to carry out public improvements?**

  No physical improvements shall be required for the creation or conversion of an ADU. Any requirement to carry out public improvements is beyond what is required for the creation of an ADU, as per state law. For example, an applicant shall not be required to improve sidewalks, carry out street improvements, or access improvements to create an ADU. Additionally, as a condition for ministerial approval of an ADU, an applicant shall not be required to correct nonconforming zoning conditions. (Gov. Code, § 65852.2, subd. (e)(2))

J) Renter and Owner-occupancy

- **Are rental terms required?**

  Yes. Local agencies may require that the property be used for rentals of terms longer than 30 days. ADUs permitted ministerially, under subdivision (e), shall be rented for terms longer than 30 days. (Gov. Code, § 65852.2, subd. (a)(6) & (e)(4))

- **Are there any owner-occupancy requirements for ADUs?**

No. Prior to recent legislation, ADU laws allowed local agencies to elect whether the primary dwelling or ADU was required to be occupied by an owner. The updates to state ADU law removed the owner-occupancy allowance for newly created ADUs effective January 1, 2020. The new owner-occupancy exclusion is set to expire on December 31, 2024. Local agencies may not retroactively require owner occupancy for ADUs permitted between January 1, 2020 and December 31, 2024.

However, should a property have both an ADU and JADU, JADU law requires owner-occupancy of either the newly created JADU, or the single-family residence. Under this specific circumstance, a lot with an ADU would be subject to owner-occupancy requirements. – (Gov. Code, § 65852.2, subd. (a)(2))

K) Fire Sprinkler Requirements

- **Are fire sprinklers required for ADUs?**

No. Installation of fire sprinklers may not be required in an ADU if sprinklers are not required for the primary residence. For example, a residence built decades ago would not have been required to have fire sprinklers installed under the applicable building code at the time. Therefore, an ADU created on this lot cannot be required to install fire sprinklers. However, if the same primary dwelling recently undergoes significant remodeling and is now required to have fire sprinklers, any ADU created after that remodel must likewise install fire sprinklers. (Gov. Code, § 65852.2, subd. (a)(1)(D)(xii) and (e)(3))

Please note, for ADUs created on lots with multifamily residential structures, the entire residential structure shall serve as the "primary residence". Therefore, if the multifamily structure is served by fire sprinklers, the ADU can be required to install fire sprinklers.

L) Solar Panel Requirements

- **Are solar panels required for new construction ADUs?**

Yes, newly constructed ADUs are subject to the Energy Code requirement to provide solar panels if the unit(s) is a newly constructed, non-manufactured, detached ADU. Per the California Energy Commission (CEC), the panels can be installed on the ADU or on the primary dwelling unit. ADUs that are constructed within existing space, or as an addition to existing homes, including detached additions where an existing detached building is converted from non-residential to residential space, are not subject to the Energy Code requirement to provide solar panels.

Please refer to the CEC on this matter. For more information, see the CEC's website www.energy.ca.gov. You may email your questions to: title24@energy.ca.gov, or contact the Energy Standards Hotline at 800-772-3300. CEC memos can also be found on HCD's website at https://www.hcd.ca.gov/policy-research/AccessoryDwellingUnits.shtml.

3. Junior Accessory Dwelling Units (JADUs) – Government Code Section 65852.22

- **Are two JADUs allowed on a lot?**

No. A JADU may be created on a lot zoned for single-family residences with one primary dwelling. The JADU may be created within the walls of the proposed or existing single-family residence, including attached garages, as attached garages are considered within the walls of the existing single-family

residence. Please note that JADUs created in the attached garage are not subject to the same parking protections as ADUs and could be required by the local agency to provide replacement parking.

JADUs are limited to one per residential lot with a single-family residence. Lots with multiple detached single-family dwellings are not eligible to have JADUs. (Gov. Code, § 65852.22, subd. (a)(1))

- **Are JADUs allowed in detached accessory structures?**

No, JADUs are not allowed in accessory structures. The creation of a JADU must be within the single-family residence. As noted above, attached garages are eligible for JADU creation. The maximum size for a JADU is 500 square feet. (Gov. Code, § 65852.22, subd. (a)(1), (a)(4), and (h)(1))

- **Are JADUs allowed to be increased up to 150 square feet when created within an existing structure?**

No. Only ADUs are allowed to add up to 150 square feet "beyond the physical dimensions of the existing accessory structure" to provide for ingress. (Gov. Code, § 65852.2, subd. (e)(1)(A)(i).)

This provision extends only to ADUs and excludes JADUs. A JADU is required to be created within the single-family residence.

- **Are there any owner-occupancy requirements for JADUs?**

Yes. There are owner-occupancy requirements for JADUs. The owner must reside in either the remaining portion of the primary residence, or in the newly created JADU. (Gov. Code, § 65852.22, subd. (a)(2))

4. Manufactured Homes and ADUs

- **Are manufactured homes considered to be an ADU?**

Yes. An ADU is any residential dwelling unit with independent facilities and permanent provisions for living, sleeping, eating, cooking and sanitation. An ADU includes a manufactured home (Health and Safety Code §18007).

> Health and Safety Code section 18007, subdivision (a) **"Manufactured home,"** for the purposes of this part, means a structure that was constructed on or after June 15, 1976, is transportable in one or more sections, is eight body feet or more in width, or 40 body feet or more in length, in the traveling mode, or, when erected on site, is 320 or more square feet, is built on a permanent chassis and designed to be used as a single-family dwelling with or without a foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, and following).

5. ADUs and the Housing Element

- **Do ADUs and JADUs count toward a local agency's Regional Housing Needs Allocation?**

  Yes. Pursuant to Gov. Code § 65852.2 subd. (m) and Government Code section 65583.1, ADUs and JADUs may be utilized towards the Regional Housing Need Allocation (RHNA) and Annual Progress Report (APR) pursuant to Government Code Section 65400. To credit a unit toward the RHNA, HCD and the Department of Finance (DOF) utilize the census definition of a housing unit. Generally an ADU, and a JADU with shared sanitation facilities, and any other unit that meets the census definition and is reported to DOF as part of the DOF annual City and County Housing Unit Change Survey can be credited toward the RHNA based on the appropriate income level. The housing element or APR must include a reasonable methodology to demonstrate the level of affordability. Local governments can track actual or anticipated affordability to assure ADUs and JADUs are counted towards the appropriate income category. For example, some local governments request and track information such as anticipated affordability as part of the building permit or other applications.

- **Is analysis required to count ADUs toward the RHNA in the housing element?**

  Yes. To calculate ADUs in the housing element, local agencies must generally use a three-part approach: (1) development trends, (2) anticipated affordability and (3) resources and incentives. Development trends must consider ADUs permitted in the prior planning period and may also consider more recent trends. Anticipated affordability can use a variety of methods to estimate the affordability by income group. Common approaches include rent surveys of ADUs, using rent surveys and square footage assumptions and data available through the APR pursuant to Government Code section 65400. Resources and incentives include policies and programs to encourage ADUs, such as prototype plans, fee waivers, expedited procedures and affordability monitoring programs.

- **Are ADUs required to be addressed in the housing element?**

  Yes. The housing element must include a description of zoning available to permit ADUs, including development standards and analysis of potential constraints on the development of ADUs. The element must include programs as appropriate to address identified constraints. In addition, housing elements must include a plan that incentivizes and promotes the creation of ADUs that can offer affordable rents for very low, low-, or moderate-income households and requires the California Department of Housing and Community Development to develop a list of state grants and financial incentives in connection with the planning, construction and operation of affordable ADUs. (Gov. Code § 65583 and Health and Safety Code § 50504.5.)

6. Homeowners Association

- **Can my local Homeowners Association (HOA) prohibit the construction of an ADU?**

  No. Assembly Bill 670 (2019) amended Section 4751 of the Civil Code to preclude planned developments from prohibiting or unreasonably restricting the construction or use of an ADU on a lot zoned for single-family residential use. Covenants, conditions and restrictions (CC&Rs) that either effectively prohibit or reasonably restrict the construction or use of an ADU or JADU on such lots are void and unenforceable. Applicants who encounter issues with creating ADUs within CC&Rs are encouraged to reach out to HCD for additional guidance.

7. Enforcement

- **Does HCD have enforcement authority over ADU ordinances?**

  Yes. After adoption of the ordinance, HCD may review and submit written findings to the local agency as to whether the ordinance complies with state ADU law. If the local agency's ordinance does not comply, HCD must provide a reasonable time, no longer than 30 days, for the local agency to respond, and the local agency shall consider HCD's findings to amend the ordinance to become compliant. If a local agency does not make changes and implements an ordinance that is not compliant with state law, HCD may refer the matter to the Attorney General.

  In addition, HCD may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify ADU law.

8. Other

- **Are ADU ordinances existing prior to new 2020 laws null and void?**

  No. Ordinances existing prior to the new 2020 laws are only null and void to the extent that existing ADU ordinances conflict with state law. Subdivision (a)(4) of Government Code Section 65852.2 states an ordinance that fails to meet the requirements of subdivision (a) shall be null and void and shall apply the state standards (see attachment 3) until a compliant ordinance is adopted. However, ordinances that substantially comply with ADU law may continue to enforce the existing ordinance to the extent it complies with state law. For example, local governments may continue the compliant provisions of an ordinance and apply the state standards where pertinent until the ordinance is amended or replaced to fully comply with ADU law. At the same time, ordinances that are fundamentally incapable of being enforced because key provisions are invalid -- meaning there is not a reasonable way to sever conflicting provisions and apply the remainder of an ordinance in a way that is consistent with state law -- would be fully null and void and must follow all state standards until a compliant ordinance is adopted.

- **Do local agencies have to adopt an ADU Ordinance?**

  No. Local governments may choose not to adopt an ADU ordinance. Should a local government choose to not adopt an ADU ordinance, any proposed ADU development would be only subject to standards set in state ADU law. If a local agency adopts an ADU ordinance, it may impose zoning, development, design, and other standards in compliance with state ADU law. (See Attachment 4 for a state standards checklist.)

- **Is a local government required to send an ADU Ordinance to the California Department of Housing and Community Development (HCD)?**

  Yes. A local government, upon adoption of an ADU ordinance, must submit a copy of the adopted ordinance to the California Department of Housing and Community Development (HCD) within 60 days after adoption. After the adoption of an ordinance, the Department may review and submit written findings to the local agency as to whether the ordinance complies with this section. (Gov. Code, § 65852.2, subd. (h)(1))

Local governments may also submit a draft ADU ordinance for preliminary review by the HCD. This provides local agencies the opportunity to receive feedback on their ordinance and helps to ensure compliance with the new state ADU law.

- **Are charter cities and counties subject to the new ADU laws?**

  Yes. ADU law applies to a local agency which is defined as a city, county, or city and county, whether general law or chartered (Gov. Code, § 65852.2, subd. (j)(5)).

  Further, pursuant to Chapter 659, Statutes of 2019 (AB 881), the Legislature found and declared ADU law as *"…a matter of statewide concern rather than a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution*" and concluded that ADU law applies to all cities, including charter cities.

- **Do the new ADU laws apply to jurisdictions located in the Coastal Zone?**

  Yes. ADU laws apply to jurisdictions in the Coastal Zone, but do not necessarily alter or lessen the effect or application of Coastal Act resource protection policies. - (Gov. Code, § 65852.22, subd. (l)).

  Coastal localities should seek to harmonize the goals of protecting coastal resources and addressing housing needs of Californians. For example, where appropriate, localities should amend Local Coastal Programs for California Coastal Commission review to comply with the California Coastal Act and new ADU laws. For more information, see the California Coastal Commission 2020 Memo and reach out to the locality's local Coastal Commission district office.

- **What is considered a multifamily dwelling?**

  For the purposes of state ADU law, a structure with two or more attached dwellings on a single lot is considered a multifamily dwelling structure. Multiple detached single-unit dwellings on the same lot are not considered multifamily dwellings for the purposes of state ADU law.

Resources

Attachment 1: Statutory Changes (Strikeout/Italics and Underline)

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2

(AB 881, AB 68 and SB 13 Accessory Dwelling Units)

(Changes noted in strikeout, underline/italics)

Effective January 1, 2020, Section 65852.2 of the Government Code is amended to read:

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily *dwelling residential* use. The ordinance shall do all of the following:
(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on ~~criteria that may include, but are not limited to,~~ the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. *A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.*
(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, ~~lot coverage,~~ landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic ~~Places.~~ *Resources. These standards shall not include requirements on minimum lot size.*
(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.
(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.
(D) Require the accessory dwelling units to comply with all of the following:
(i) The *accessory dwelling* unit may be rented separate from the primary residence, ~~buy~~ *but* may not be sold or otherwise conveyed separate from the primary residence.
(ii) The lot is zoned to allow single-family or multifamily *dwelling residential* use and includes a proposed or existing ~~single-family~~ dwelling.
(iii) The accessory dwelling unit is either attached *to,* or located ~~within the living area of the~~ *within, the* proposed or existing primary ~~dwelling or~~ *dwelling, including attached garages, storage areas or similar uses, or an accessory structure or* detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.
(iv) ~~The total area of floorspace of~~ *If there is an existing primary dwelling, the total floor area of* an attached accessory dwelling unit shall not exceed 50 percent of the ~~proposed or existing primary dwelling living area or 1,200 square feet.~~ *existing primary dwelling.*
(v) The total *floor* area ~~of floorspace~~ for a detached accessory dwelling unit shall not exceed 1,200 square feet.
(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
(vii) No setback shall be required for an existing ~~garage~~ *living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure* that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than ~~five~~ *four* feet from the side and rear lot lines shall be required for an accessory dwelling unit that is ~~constructed above a garage.~~ *not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.*
(viii) Local building code requirements that apply to detached dwellings, as appropriate.
(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.
(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per *accessory dwelling* unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.
(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.
(III) This clause shall not apply to ~~a~~ an accessory dwelling unit that is described in subdivision (d).
(xi) 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, ~~and~~ the local agency ~~requires~~ *shall not require* that those ~~offstreet~~ *offstreet* parking spaces be ~~replaced, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts. This clause shall not apply to a unit that is described in subdivision (d)~~*. replaced.*

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) ~~When a local agency receives its first application on or after July 1, 2003, for a permit pursuant to this subdivision, the application~~ *A permit application for an accessory dwelling unit or a junior accessory dwelling unit* shall be considered *and approved* ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use ~~permits, within 120 days after receiving the application~~. *permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay.* A local agency may charge a fee to reimburse it for costs ~~that it incurs as a result of amendments to this paragraph enacted during the 2001–02 Regular Session of the Legislature,~~ *incurred to implement this paragraph,* including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency ~~subsequent to the effective date of the act adding this paragraph~~ shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. ~~In the event that~~ *If* a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void ~~upon the effective date of the act adding this paragraph~~ and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts an ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the *delay or* denial of a building permit or a use permit under this subdivision.

(6) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot ~~zoned for residential use~~ that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be ~~utilized~~ *used* or imposed, *including any owner-occupant requirement,* except that a local agency may require ~~an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or~~ that the property be used for rentals of terms longer than 30 days.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision 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 unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision ~~(a) within 120 days after receiving the application.~~ *(a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted*

with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

~~(c)~~ *(C)* ~~A local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units. No minimum~~ *Any other minimum* or maximum size for an accessory dwelling unit, ~~or~~ size based upon a percentage of the proposed or existing primary dwelling, ~~shall be established by ordinance~~ *or limits on lot coverage, floor area ratio, open space, and minimum lot size,* for either attached or detached dwellings that does not permit at least an ~~efficiency unit to be constructed in compliance with local development standards. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.~~ *800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.*

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile *walking distance* of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) *(1)* Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit ~~to create within a zone for single-family use one accessory dwelling unit per single-family lot if the unit is contained within the existing space of a single-family residence or accessory structure, including, but not limited to, a studio, pool house, or other similar structure, has independent exterior access from the existing residence, and the side and rear setbacks are sufficient for fire safety. Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence. A city may require owner occupancy for either the primary or the accessory dwelling unit created through this process.~~ *within a residential or mixed-use zone to create any of the following:*

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not

used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.
(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and shall allow up to 25 percent of the existing multifamily dwelling units.
(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.
(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.
(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.
(4) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.
(5) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.
(6) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1, 2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.
(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).
(2) ~~Accessory~~ *An accessory* dwelling ~~units~~ *unit* shall not be considered by a local agency, special district, or water corporation to be a new residential use for ~~the~~ purposes of calculating connection fees or capacity charges for utilities, including water and sewer ~~service.~~ *service, unless the accessory dwelling unit was constructed with a new single-family dwelling.*
(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.
(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.
~~(A)~~ *(4)* For an accessory dwelling unit described in *subparagraph (A) of paragraph (1) of* subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity ~~charge.~~ *charge, unless the accessory dwelling unit was constructed with a new single-family home.*
~~(B)~~ *(5)* For an accessory dwelling unit that is not described in *subparagraph (A) of paragraph (1) of* subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its ~~size~~ *square feet* or the number of its ~~plumbing fixtures,~~ *drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials,* upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.
(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.
(h) ~~Local~~ *(1)* ~~agencies~~ *A local agency* shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. ~~The department may review and comment on this submitted ordinance.~~ *After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.*
(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.
(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.
(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.
(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.
(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.
(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.
~~(i)~~ *(j)* As used in this section, the following terms mean:
~~(1) "Living area" means the interior habitable area of a dwelling unit including basements and attics but does not include a garage or any accessory structure.~~
~~(2) "Local agency" means a city, county, or city and county, whether general law or chartered.~~
~~(3) For purposes of this section, "neighborhood" has the same meaning as set forth in Section 65589.5.~~
~~(4)~~ *(1)* "Accessory dwelling unit" means an attached or a detached residential dwelling unit ~~which~~ *that* provides complete independent living facilities for one or more ~~persons.~~ *persons and is located on a lot with a proposed or existing primary residence.* It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family *or multifamily* dwelling is *or will be* situated. An accessory dwelling unit also includes the following:
(A) An efficiency unit.
(B) A manufactured home, as defined in Section 18007 of the Health and Safety Code.
(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.
~~(A)~~ *(3)* ~~An efficiency unit,~~ *"Efficiency unit" has the same meaning* as defined in Section 17958.1 of the Health and Safety Code.
~~(B)~~ *(4)* ~~A manufactured home, as defined in Section 18007 of the Health and Safety Code.~~ *"Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.*
(5) "Local agency" means a city, county, or city and county, whether general law or chartered.
(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.
(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.
~~(5)~~ *(8)* "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.
(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.
~~(6)~~ *(11)* "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.
(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.
~~(j)~~ *(l)* Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.
(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.
(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2)

below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:
(1) The accessory dwelling unit was built before January 1, 2020.
(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(o) This section shall remain in effect only until January 1, 2025, and as of that date is repealed.

(Becomes operative on January 1, 2025)
Section 65852.2 of the Government Code is amended to read (changes from January 1, 2020 statute noted in underline/italic):

65852.2.

(a) (1) A local agency may, by ordinance, provide for the creation of accessory dwelling units in areas zoned to allow single-family or multifamily dwelling residential use. The ordinance shall do all of the following:

(A) Designate areas within the jurisdiction of the local agency where accessory dwelling units may be permitted. The designation of areas may be based on the adequacy of water and sewer services and the impact of accessory dwelling units on traffic flow and public safety. A local agency that does not provide water or sewer services shall consult with the local water or sewer service provider regarding the adequacy of water and sewer services before designating an area where accessory dwelling units may be permitted.

(B) (i) Impose standards on accessory dwelling units that include, but are not limited to, parking, height, setback, landscape, architectural review, maximum size of a unit, and standards that prevent adverse impacts on any real property that is listed in the California Register of Historic Resources. These standards shall not include requirements on minimum lot size.

(ii) Notwithstanding clause (i), a local agency may reduce or eliminate parking requirements for any accessory dwelling unit located within its jurisdiction.

(C) Provide that accessory dwelling units do not exceed the allowable density for the lot upon which the accessory dwelling unit is located, and that accessory dwelling units are a residential use that is consistent with the existing general plan and zoning designation for the lot.

(D) Require the accessory dwelling units to comply with all of the following:

(i) The accessory dwelling unit may be rented separate from the primary residence, but may not be sold or otherwise conveyed separate from the primary residence.

(ii) The lot is zoned to allow single-family or multifamily dwelling residential use and includes a proposed or existing dwelling.

(iii) The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing primary dwelling and located on the same lot as the proposed or existing primary dwelling.

(iv) If there is an existing primary dwelling, the total floor area of an attached accessory dwelling unit shall not exceed 50 percent of the existing primary dwelling.

(v) The total floor area for a detached accessory dwelling unit shall not exceed 1,200 square feet.

(vi) No passageway shall be required in conjunction with the construction of an accessory dwelling unit.

(vii) No setback shall be required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines

shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.

(viii) Local building code requirements that apply to detached dwellings, as appropriate.

(ix) Approval by the local health officer where a private sewage disposal system is being used, if required.

(x) (I) Parking requirements for accessory dwelling units shall not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on a driveway.

(II) Offstreet parking shall be permitted in setback areas in locations determined by the local agency or through tandem parking, unless specific findings are made that parking in setback areas or tandem parking is not feasible based upon specific site or regional topographical or fire and life safety conditions.

(III) This clause shall not apply to an accessory dwelling unit that is described in subdivision (d).

(xi) 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 local agency shall not require that those offstreet parking spaces be replaced.

(xii) Accessory dwelling units shall not be required to provide fire sprinklers if they are not required for the primary residence.

(2) The ordinance shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(3) A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits. The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall be considered without discretionary review or hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse it for costs incurred to implement this paragraph, including the costs of adopting or amending any ordinance that provides for the creation of an accessory dwelling unit.

(4) An existing ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes, provisions, or requirements for those units, except as otherwise provided in this subdivision. If a local agency has an existing accessory dwelling unit ordinance that fails to meet the requirements of this subdivision, that ordinance shall be null and void and that agency shall thereafter apply the standards established in this subdivision for the approval of accessory dwelling units, unless and until the agency adopts ~~an~~ on ordinance that complies with this section.

(5) No other local ordinance, policy, or regulation shall be the basis for the delay or denial of a building permit or a use permit under this subdivision.

(6) (A) This subdivision establishes the maximum standards that local agencies shall use to evaluate a proposed accessory dwelling unit on a lot that includes a proposed or existing single-family dwelling. No additional standards, other than those provided in this subdivision, shall be used or ~~imposed, including any owner-occupant requirement, except that a local agency may require that the property be used for rentals of terms longer than 30 days.~~ imposed except that, *subject to subparagraph (B)*, a local agency may require *an applicant for a permit issued pursuant to this subdivision to be an owner-occupant or* that the property be used for rentals of terms longer than 30 days.

(B) Notwithstanding subparagraph (A), a local agency shall not impose an owner-occupant requirement on an accessory dwelling unit permitted between January 1, 2020, to January 1, 2025, during which time the local agency was prohibited from imposing an owner-occupant requirement.

(7) A local agency may amend its zoning ordinance or general plan to incorporate the policies, procedures, or other provisions applicable to the creation of an accessory dwelling unit if these provisions are consistent with the limitations of this subdivision.

(8) An accessory dwelling unit that conforms to this subdivision 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 unit shall not be considered in the application of any local ordinance, policy, or program to limit residential growth.

(b) When a local agency that has not adopted an ordinance governing accessory dwelling units in accordance with subdivision (a) receives an application for a permit to create an accessory dwelling unit pursuant to this subdivision, the local agency shall approve or disapprove the application ministerially without discretionary review pursuant to subdivision (a). The permitting agency shall act on the application to create an accessory dwelling unit or a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing single-family or multifamily dwelling on the lot. If the permit application to create an accessory dwelling unit or a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the accessory dwelling unit or the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the accessory dwelling unit or junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. If the local agency has not acted upon the completed application within 60 days, the application shall be deemed approved.

(c) (1) Subject to paragraph (2), a local agency may establish minimum and maximum unit size requirements for both attached and detached accessory dwelling units.

(2) Notwithstanding paragraph (1), a local agency shall not establish by ordinance any of the following:

(A) A minimum square footage requirement for either an attached or detached accessory dwelling unit that prohibits an efficiency unit.

(B) A maximum square footage requirement for either an attached or detached accessory dwelling unit that is less than either of the following:

(i) 850 square feet.

(ii) 1,000 square feet for an accessory dwelling unit that provides more than one bedroom.

(C) Any other minimum or maximum size for an accessory dwelling unit, size based upon a percentage of the proposed or existing primary dwelling, or limits on lot coverage, floor area ratio, open space, and minimum lot size, for either attached or detached dwellings that does not permit at least an 800 square foot accessory dwelling unit that is at least 16 feet in height with four-foot side and rear yard setbacks to be constructed in compliance with all other local development standards.

(d) Notwithstanding any other law, a local agency, whether or not it has adopted an ordinance governing accessory dwelling units in accordance with subdivision (a), shall not impose parking standards for an accessory dwelling unit in any of the following instances:

(1) The accessory dwelling unit is located within one-half mile walking distance of public transit.

(2) The accessory dwelling unit is located within an architecturally and historically significant historic district.

(3) The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.

(4) When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.

(5) When there is a car share vehicle located within one block of the accessory dwelling unit.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following:

(A) One accessory dwelling unit or junior accessory dwelling unit per lot with a proposed or existing single-family dwelling if all of the following apply:

(i) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than 150 square feet beyond the same physical dimensions as the existing accessory structure. An expansion beyond the physical dimensions of the existing accessory structure shall be limited to accommodating ingress and egress.

(ii) The space has exterior access from the proposed or existing single-family dwelling.

(iii) The side and rear setbacks are sufficient for fire and safety.

(iv) The junior accessory dwelling unit complies with the requirements of Section 65852.22.

(B) One detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks for a lot with a proposed or existing single-family dwelling. The accessory dwelling unit may be combined with a junior accessory dwelling unit described in subparagraph (A). A local agency may impose the following conditions on the accessory dwelling unit:

(i) A total floor area limitation of not more than 800 square feet.

(ii) A height limitation of 16 feet.

(C) (i) Multiple accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, if each unit complies with state building standards for dwellings.

(ii) A local agency shall allow at least one accessory dwelling unit within an existing multifamily dwelling and may shall allow up to 25 percent of the existing multifamily dwelling units.

(D) Not more than two accessory dwelling units that are located on a lot that has an existing multifamily dwelling, but are detached from that multifamily dwelling and are subject to a height limit of 16 feet and four-foot rear yard and side setbacks.

(2) A local agency shall not require, as a condition for ministerial approval of a permit application for the creation of an accessory dwelling unit or a junior accessory dwelling unit, the correction of nonconforming zoning conditions.

(3) The installation of fire sprinklers shall not be required in an accessory dwelling unit if sprinklers are not required for the primary residence.

(4) A local agency may require owner occupancy for either the primary dwelling or the accessory dwelling unit on a single-family lot, subject to the requirements of paragraph (6) of subdivision (a).

(5) A local agency shall require that a rental of the accessory dwelling unit created pursuant to this subdivision be for a term longer than 30 days.

~~(5)~~ (6) A local agency may require, as part of the application for a permit to create an accessory dwelling unit connected to an onsite water treatment system, a percolation test completed within the last five years, or, if the percolation test has been recertified, within the last 10 years.

~~(6)~~ (7) Notwithstanding subdivision (c) and paragraph (1) a local agency that has adopted an ordinance by July 1,

2018, providing for the approval of accessory dwelling units in multifamily dwelling structures shall ministerially consider a permit application to construct an accessory dwelling unit that is described in paragraph (1), and may impose standards including, but not limited to, design, development, and historic standards on said accessory dwelling units. These standards shall not include requirements on minimum lot size.

(f) (1) Fees charged for the construction of accessory dwelling units shall be determined in accordance with Chapter 5 (commencing with Section 66000) and Chapter 7 (commencing with Section 66012).

(2) An accessory dwelling unit shall not be considered by a local agency, special district, or water corporation to be a new residential use for purposes of calculating connection fees or capacity charges for utilities, including water and sewer service, unless the accessory dwelling unit was constructed with a new single-family dwelling.

(3) (A) A local agency, special district, or water corporation shall not impose any impact fee upon the development of an accessory dwelling unit less than 750 square feet. Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit.

(B) For purposes of this paragraph, "impact fee" has the same meaning as the term "fee" is defined in subdivision (b) of Section 66000, except that it also includes fees specified in Section 66477. "Impact fee" does not include any connection fee or capacity charge charged by a local agency, special district, or water corporation.

(4) For an accessory dwelling unit described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation shall not require the applicant to install a new or separate utility connection directly between the accessory dwelling unit and the utility or impose a related connection fee or capacity charge, unless the accessory dwelling unit was constructed with a new single-family ~~home~~ dwelling.

(5) For an accessory dwelling unit that is not described in subparagraph (A) of paragraph (1) of subdivision (e), a local agency, special district, or water corporation may require a new or separate utility connection directly between the accessory dwelling unit and the utility. Consistent with Section 66013, the connection may be subject to a connection fee or capacity charge that shall be proportionate to the burden of the proposed accessory dwelling unit, based upon either its square feet or the number of its drainage fixture unit (DFU) values, as defined in the Uniform Plumbing Code adopted and published by the International Association of Plumbing and Mechanical Officials, upon the water or sewer system. This fee or charge shall not exceed the reasonable cost of providing this service.

(g) This section does not limit the authority of local agencies to adopt less restrictive requirements for the creation of an accessory dwelling unit.

(h) (1) A local agency shall submit a copy of the ordinance adopted pursuant to subdivision (a) to the Department of Housing and Community Development within 60 days after adoption. After adoption of an ordinance, the department may submit written findings to the local agency as to whether the ordinance complies with this section.

(2) (A) If the department finds that the local agency's ordinance does not comply with this section, the department shall notify the local agency and shall provide the local agency with a reasonable time, no longer than 30 days, to respond to the findings before taking any other action authorized by this section.

(B) The local agency shall consider the findings made by the department pursuant to subparagraph (A) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local agency shall include findings in its resolution adopting the ordinance that explain the reasons the local agency believes that the ordinance complies with this section despite the findings of the department.

(3) (A) If the local agency does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this section and addressing the department's findings, the department shall notify the local agency and may notify the Attorney General that the local agency is in violation of state law.

(B) Before notifying the Attorney General that the local agency is in violation of state law, the department may consider whether a local agency adopted an ordinance in compliance with this section between January 1, 2017, and January 1, 2020.

(i) The department may review, adopt, amend, or repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, and standards set forth in this section. The guidelines adopted pursuant to this subdivision are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

(j) As used in this section, the following terms mean:

(1) "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes the following:

(A) An efficiency unit.

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

(2) "Accessory structure" means a structure that is accessory and incidental to a dwelling located on the same lot.

(3) "Efficiency unit" has the same meaning as defined in Section 17958.1 of the Health and Safety Code.

(4) "Living area" means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

(5) "Local agency" means a city, county, or city and county, whether general law or chartered.

(6) "Neighborhood" has the same meaning as set forth in Section 65589.5.

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

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

(7) "Nonconforming zoning condition" means a physical improvement on a property that does not conform with current zoning standards.

(8) "Passageway" means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.

(9) "Proposed dwelling" means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

(10) "Public transit" means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge set fares, run on fixed routes, and are available to the public.

(11) "Tandem parking" means that two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

(k) A local agency shall not issue a certificate of occupancy for an accessory dwelling unit before the local agency issues a certificate of occupancy for the primary dwelling.

(l) Nothing in this section shall be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code), except that the local government shall not be required to hold public hearings for coastal development permit applications for accessory dwelling units.

(m) A local agency may count an accessory dwelling unit for purposes of identifying adequate sites for housing, as specified in subdivision (a) of Section 65583.1, subject to authorization by the department and compliance with this division.

(n) In enforcing building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code for an accessory dwelling unit described in paragraph (1) or (2) below, a local agency, upon request of an owner of an accessory dwelling unit for a delay in enforcement, shall delay enforcement of a building standard, subject to compliance with Section 17980.12 of the Health and Safety Code:

(1) The accessory dwelling unit was built before January 1, 2020.

(2) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.

(o) This section shall ~~remain in effect only until January 1, 2025, and as of that date is repealed~~ *become operative on January 1, 2025.*

Effective January 1, 2020, Section 65852.22 of the Government Code is amended to read (changes noted in strikeout, underline/italics) (AB 68 (Ting)):

65852.22.

(a) Notwithstanding Section 65852.2, a local agency may, by ordinance, provide for the creation of junior accessory dwelling units in single-family residential zones. The ordinance may require a permit to be obtained for the creation of a junior accessory dwelling unit, and shall do all of the following:

(1) Limit the number of junior accessory dwelling units to one per residential lot zoned for single-family residences with a single-family residence ~~already built~~ *built, or proposed to be built,* on the lot.

(2) Require owner-occupancy in the single-family residence in which the junior accessory dwelling unit will be permitted. The owner may reside in either the remaining portion of the structure or the newly created junior accessory dwelling unit. Owner-occupancy shall not be required if the owner is another governmental agency, land trust, or housing organization.

(3) Require the recordation of a deed restriction, which shall run with the land, shall be filed with the permitting agency, and shall include both of the following:

(A) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this section.

(4) Require a permitted junior accessory dwelling unit to be constructed within the ~~existing~~ walls of the ~~structure, and require the inclusion of an existing bedroom.~~ *proposed or existing single-family residence.*

(5) Require a permitted junior accessory dwelling to include a separate entrance from the main entrance to the ~~structure, with an interior entry to the main living area. A permitted junior accessory dwelling may include a second interior doorway for sound attenuation.~~ *proposed or existing single-family residence.*

(6) Require the permitted junior accessory dwelling unit to include an efficiency kitchen, which shall include all of the following:

~~(A) A sink with a maximum waste line diameter of 1.5 inches.~~

~~(B)~~ *(A)* A cooking facility with ~~appliances that do not require electrical service greater than 120 volts, or natural or propane gas.~~ *appliances*.

~~(C)~~ *(B)* A food preparation counter and storage cabinets that are of reasonable size in relation to the size of the junior accessory dwelling unit.

(b) (1) An ordinance shall not require additional parking as a condition to grant a permit.

(2) This subdivision shall not be interpreted to prohibit the requirement of an inspection, including the imposition of a fee for that inspection, to determine ~~whether~~ *if* the junior accessory dwelling unit ~~is in compliance~~ *complies* with applicable building standards.

(c) An application for a permit pursuant to this section shall, notwithstanding Section 65901 or 65906 or any local ordinance regulating the issuance of variances or special use permits, be considered ministerially, without discretionary review or a hearing. ~~A permit shall be issued within 120 days of submission of an application for a permit pursuant to this section.~~ *The permitting agency shall act on the application to create a junior accessory dwelling unit within 60 days from the date the local agency receives a completed application if there is an existing*

single-family dwelling on the lot. If the permit application to create a junior accessory dwelling unit is submitted with a permit application to create a new single-family dwelling on the lot, the permitting agency may delay acting on the permit application for the junior accessory dwelling unit until the permitting agency acts on the permit application to create the new single-family dwelling, but the application to create the junior accessory dwelling unit shall still be considered ministerially without discretionary review or a hearing. If the applicant requests a delay, the 60-day time period shall be tolled for the period of the delay. A local agency may charge a fee to reimburse the local agency for costs incurred in connection with the issuance of a permit pursuant to this section.
(d) For ~~the~~ purposes of any fire or life protection ordinance or regulation, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit. This section shall not be construed to prohibit a city, county, city and county, or other local public entity from adopting an ordinance or regulation relating to fire and life protection requirements within a single-family residence that contains a junior accessory dwelling unit so long as the ordinance or regulation applies uniformly to all single-family residences within the zone regardless of whether the single-family residence includes a junior accessory dwelling unit or not.
(e) For ~~the~~ purposes of providing service for water, sewer, or power, including a connection fee, a junior accessory dwelling unit shall not be considered a separate or new dwelling unit.
(f) This section shall not be construed to prohibit a local agency from adopting an ordinance or regulation, related to parking or a service or a connection fee for water, sewer, or power, that applies to a single-family residence that contains a junior accessory dwelling unit, so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether the single-family residence includes a junior accessory dwelling unit.
(g) If a local agency has not adopted a local ordinance pursuant to this section, the local agency shall ministerially approve a permit to construct a junior accessory dwelling unit that satisfies the requirements set forth in subparagraph (A) of paragraph (1) of subdivision (e) of Section 65852.2 and the requirements of this section.
~~(g)~~ *(h)* For purposes of this section, the following terms have the following meanings:
(1) "Junior accessory dwelling unit" means a unit that is no more than 500 square feet in size and contained entirely within ~~an existing~~ *a* single-family ~~structure.~~ *residence*. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.
(2) "Local agency" means a city, county, or city and county, whether general law or chartered.

Effective January 1, 2020 Section 17980.12 is added to the Health and Safety Code, immediately following Section 17980.11, to read (changes noted in underline/italics) (SB 13 (Wieckowski)):

17980.12.

(a) (1) An enforcement agency, until January 1, 2030, that issues to an owner of an accessory dwelling unit described in subparagraph (A) or (B) below, a notice to correct a violation of any provision of any building standard pursuant to this part shall include in that notice a statement that the owner of the unit has a right to request a delay in enforcement pursuant to this subdivision:
(A) The accessory dwelling unit was built before January 1, 2020.
(B) The accessory dwelling unit was built on or after January 1, 2020, in a local jurisdiction that, at the time the accessory dwelling unit was built, had a noncompliant accessory dwelling unit ordinance, but the ordinance is compliant at the time the request is made.
(2) The owner of an accessory dwelling unit that receives a notice to correct violations or abate nuisances as described in paragraph (1) may, in the form and manner prescribed by the enforcement agency, submit an application to the enforcement agency requesting that enforcement of the violation be delayed for five years on the basis that correcting the violation is not necessary to protect health and safety.
(3) The enforcement agency shall grant an application described in paragraph (2) if the enforcement determines that correcting the violation is not necessary to protect health and safety. In making this determination, the enforcement agency shall consult with the entity responsible for enforcement of building standards and other regulations of the State Fire Marshal pursuant to Section 13146.
(4) The enforcement agency shall not approve any applications pursuant to this section on or after January 1, 2030. However, any delay that was approved by the enforcement agency before January 1, 2030, shall be valid for the full term of the delay that was approved at the time of the initial approval of the application pursuant to paragraph (3).
(b) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in Section 65852.2.
(c) This section shall remain in effect only until January 1, 2035, and as of that date is repealed.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 4, ARTICLE 2
AB 587 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 65852.26 is added to the Government Code, immediately following Section 65852.25, to read (AB 587 (Friedman)):

65852.26.

(a) Notwithstanding clause (i) of subparagraph (D) of paragraph (1) of subdivision (a) of Section 65852.2, a local agency may, by ordinance, allow an accessory dwelling unit to be sold or conveyed separately from the primary residence to a qualified buyer if all of the following apply:

(1) The property was built or developed by a qualified nonprofit corporation.

(2) There is an enforceable restriction on the use of the land pursuant to a recorded contract between the qualified buyer and the qualified nonprofit corporation that satisfies all of the requirements specified in paragraph (10) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(3) The property is held pursuant to a recorded tenancy in common agreement that includes all of the following:

(A) The agreement allocates to each qualified buyer an undivided, unequal interest in the property based on the size of the dwelling each qualified buyer occupies.

(B) A repurchase option that requires the qualified buyer to first offer the qualified nonprofit corporation to buy the property if the buyer desires to sell or convey the property.

(C) A requirement that the qualified buyer occupy the property as the buyer's principal residence.

(D) Affordability restrictions on the sale and conveyance of the property that ensure the property will be preserved for low-income housing for 45 years for owner-occupied housing units and will be sold or resold to a qualified buyer.

(4) A grant deed naming the grantor, grantee, and describing the property interests being transferred shall be recorded in the county in which the property is located. A Preliminary Change of Ownership Report shall be filed concurrently with this grant deed pursuant to Section 480.3 of the Revenue and Taxation Code.

(5) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (f) of Section 65852.2, if requested by a utility providing service to the primary residence, the accessory dwelling unit has a separate water, sewer, or electrical connection to that utility.

(b) For purposes of this section, the following definitions apply:

(1) "Qualified buyer" means persons and families of low or moderate income, as that term is defined in Section 50093 of the Health and Safety Code.

(2) "Qualified nonprofit corporation" means a nonprofit corporation organized pursuant to Section 501(c)(3) of the Internal Revenue Code that has received a welfare exemption under Section 214.15 of the Revenue and Taxation Code for properties intended to be sold to low-income families who participate in a special no-interest loan program.

CIVIL CODE: DIVISION 4, PART 5, CHAPTER 5, ARTICLE 1
AB 670 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 4751 is added to the Civil Code, to read (AB 670 (Friedman)):

4751.

(a) Any covenant, restriction, or condition 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 either 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 requirements of Section 65852.2 or 65852.22 of the Government Code, is void and unenforceable.

(b) This section does not apply to provisions that impose reasonable restrictions on accessory dwelling units or junior accessory dwelling units. For purposes of this subdivision, "reasonable restrictions" means restrictions that do not unreasonably increase the cost to construct, effectively prohibit the construction of, or extinguish the ability to otherwise construct, an accessory dwelling unit or junior accessory dwelling unit consistent with the provisions of Section 65852.2 or 65852.22 of the Government Code.

GOV. CODE: TITLE 7, DIVISION 1, CHAPTER 3, ARTICLE 10.6
AB 671 Accessory Dwelling Units
(Changes noted in underline/italics)

Effective January 1, 2020, Section 65583(c)(7) of the Government Code is added to read (sections of housing element law omitted for conciseness) (AB 671 (Friedman)):

65583(c)(7).

Develop a plan that incentivizes and promotes the creation of accessory dwelling units that can be offered at affordable rent, as defined in Section 50053 of the Health and Safety Code, for very low, low-, or moderate-income households. For purposes of this paragraph, "accessory dwelling units" has the same meaning as "accessory dwelling unit" as defined in paragraph (4) of subdivision (i) of Section 65852.2.

Effective January 1, 2020, Section 50504.5 is added to the Health and Safety Code, to read (AB 671 (Friedman)):

50504.5.

(a) The department shall develop by December 31, 2020, a list of existing state grants and financial incentives for operating, administrative, and other expenses in connection with the planning, construction, and operation of an accessory dwelling unit with affordable rent, as defined in Section 50053, for very low, low-, and moderate-income households.

(b) The list shall be posted on the department's internet website by December 31, 2020.

(c) For purposes of this section, "accessory dwelling unit" has the same meaning as defined in paragraph (4) of subdivision (i) of Section 65852.2 of the Government Code.

Attachment 2: State Standards Checklist

YES/NO	STATE STANDARD*	GOVERNMENT CODE SECTION
	Unit is not intended for sale separate from the primary residence and may be rented.	65852.2(a)(1)(D)(i)
	Lot is zoned for single-family or multifamily use and contains a proposed or existing, dwelling.	65852.2(a)(1)(D)(ii)
	The accessory dwelling unit is either attached to, or located within, the proposed or existing primary dwelling, including attached garages, storage areas or similar uses, or an accessory structure or detached from the proposed or existing dwelling and located on the same lot as the proposed or existing primary dwelling.	65852.2(a)(1)(D)(iii)
	Increased floor area of an attached accessory dwelling unit does not exceed 50 percent of the existing primary dwelling but shall be allowed to be at least 800/850/1000 square feet.	65852.2(a)(1)(D)(iv), (c)(2)(B) & C)
	Total area of floor area for a detached accessory dwelling unit does not exceed 1,200 square feet.	65852.2(a)(1)(D)(v)
	Passageways are not required in conjunction with the construction of an accessory dwelling unit.	65852.2(a)(1)(D)(vi)
	Setbacks are not required for an existing living area or accessory structure or a structure constructed in the same location and to the same dimensions as an existing structure that is converted to an accessory dwelling unit or to a portion of an accessory dwelling unit, and a setback of no more than four feet from the side and rear lot lines shall be required for an accessory dwelling unit that is not converted from an existing structure or a new structure constructed in the same location and to the same dimensions as an existing structure.	65852.2(a)(1)(D)(vii)
	Local building code requirements that apply to detached dwellings are met, as appropriate.	65852.2(a)(1)(D)(viii)
	Local health officer approval where a private sewage disposal system is being used, if required.	65852.2(a)(1)(D)(ix)
	Parking requirements do not exceed one parking space per accessory dwelling unit or per bedroom, whichever is less. These spaces may be provided as tandem parking on an existing driveway.	65852.2(a)(1)(D)(x)(I

Attachment 3: Bibliography

ACCESSORY DWELLING UNITS: CASE STUDY (26 pp.)

By the United States Department of Housing and Urban Development, Office of Policy Development and Research. (2008)

Introduction: Accessory dwelling units (ADUs) — also referred to as accessory apartments, ADUs, or granny flats — are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities and can be either attached or detached from the main residence. This case study explores how the adoption of ordinances, with reduced regulatory restrictions to encourage ADUs, can be advantageous for communities. Following an explanation of the various types of ADUs and their benefits, this case study provides examples of municipalities with successful ADU legislation and programs. Section titles include: History of ADUs; Types of Accessory Dwelling Units; Benefits of Accessory Dwelling Units; and Examples of ADU Ordinances and Programs.

THE MACRO VIEW ON MICRO UNITS (46 pp.)

By Bill Whitlow, et al. – Urban Land Institute (2014)
Library Call #: H43 4.21 M33 2014

The Urban Land Institute Multifamily Housing Councils were awarded a ULI Foundation research grant in fall 2013 to evaluate from multiple perspectives the market performance and market acceptance of micro and small units.

SECONDARY UNITS AND URBAN INFILL: A Literature Review (12 pp.)

By Jake Wegmann and Alison Nemirow (2011)
UC Berkeley: IURD
Library Call # D44 4.21 S43 2011

This literature review examines the research on both infill development in general, and secondary units in particular, with an eye towards understanding the similarities and differences between infill as it is more traditionally understood – i.e., the development or redevelopment of entire parcels of land in an already urbanized area – and the incremental type of infill that secondary unit development constitutes.

RETHINKING PRIVATE ACCESSORY DWELLINGS (5 pp.)

By William P. Macht. Urbanland online. (March 6, 2015)
Library Location: Urbanland 74 (1/2) January/February 2015, pp. 87-91.

One of the large impacts of single-use, single-family detached zoning has been to severely shrink the supply of accessory dwellings, which often were created in or near primary houses. Detached single-family dwelling zones—the largest housing zoning category—typically preclude more than one dwelling per lot except under stringent regulation, and then only in some jurisdictions. Bureaucratically termed “accessory dwelling units” that are allowed by some jurisdictions may encompass market-derived names such as granny flats, granny cottages, mother-in-law suites, secondary suites, backyard cottages, casitas, carriage flats, sidekick houses, basement apartments, attic apartments, laneway houses, multigenerational homes, or home-within-a-home.

Regulating ADUs in California: Local Approaches & Outcomes (44 pp.)

By Deidra Pfeiffer
Terner Center for Housing and Innovation, UC Berkeley

Accessory dwelling units (ADU) are often mentioned as a key strategy in solving the nation's housing problems, including housing affordability and challenges associated with aging in place. However, we know little about whether formal ADU practices—such as adopting an ordinance, establishing regulations, and permitting—contribute to these goals. This research helps to fill this gap by using data from the Terner California Residential Land Use Survey and the U.S. Census Bureau to understand the types of communities engaging in different kinds of formal ADU practices in California, and whether localities with adopted ordinances and less restrictive regulations have more frequent applications to build ADUs and increasing housing affordability and aging in place. Findings suggest that three distinct approaches to ADUs are occurring in California: 1) a more restrictive approach in disadvantaged communities of color, 2) a moderately restrictive approach in highly advantaged, predominately White and Asian communities, and 3) a less restrictive approach in diverse and moderately advantaged communities. Communities with adopted ordinances and less restrictive regulations receive more frequent applications to build ADUs but have not yet experienced greater improvements in housing affordability and aging in place. Overall, these findings imply that 1) context-specific technical support and advocacy may be needed to help align formal ADU practices with statewide goals, and 2) ADUs should be treated as one tool among many to manage local housing problems.

ADU Update: Early Lessons and Impacts of California's State and Local Policy Changes (8 p.)

By David Garcia (2017)
Terner Center for Housing and Innovation, UC Berkeley

As California's housing crisis deepens, innovative strategies for creating new housing units for all income levels are needed. One such strategy is building Accessory Dwelling Units (ADUs) by private homeowners. While large scale construction of new market rate and affordable homes is needed to alleviate demand-driven rent increases and displacement pressures, ADUs present a unique opportunity for individual homeowners to create more housing as well. In particular, ADUs can increase the supply of housing in areas where there are fewer opportunities for larger-scale developments, such as neighborhoods that are predominantly zoned for and occupied by single-family homes.
In two of California's major metropolitan areas -- Los Angeles and San Francisco -- well over three quarters of the total land area is comprised of neighborhoods where single-family homes make up at least 60 percent of the community's housing stock. Across the state, single-family detached units make up 56.4 percent of the overall housing stock. Given their prevalence in the state's residential land use patterns, increasing the number of single-family homes that have an ADU could contribute meaningfully to California's housing shortage.

Jumpstarting the Market for Accessory Dwelling Units: Lessons Learned from Portland, Seattle and Vancouver (29pp.)

By Karen Chapple et al (2017)
Terner Center for Housing and Innovation, UC Berkeley

Despite government attempts to reduce barriers, a widespread surge of ADU construction has not materialized. The ADU market remains stalled. To find out why, this study looks at three cities in the Pacific Northwest of the United States and Canada that have seen a spike in construction in recent years: Portland, Seattle, and Vancouver. Each city has adopted a set of zoning reforms, sometimes in combination with financial incentives and outreach programs, to spur ADU construction. Due to these changes, as well as the acceleration of the housing crisis in each city, ADUs have begun blossoming.

Accessory Dwelling Units as Low-Income Housing: California's Faustian Bargain (37 pp.)

By Darrel Ramsey-Musolf (2018)
University of Massachusetts Amherst, ScholarWorks@UMass Amherst

In 2003, California allowed cities to count accessory dwelling units (ADU) towards low-income housing needs. Unless a city's zoning code regulates the ADU's maximum rent, occupancy income, and/or effective period, then the city may be unable to enforce low-income occupancy. After examining a stratified random sample of 57 low-, moderate-, and high-income cities, the high-income cities must proportionately accommodate more low-income needs than low-income cities. By contrast, low-income cities must quantitatively accommodate three times the low-income needs of high-income cities. The sample counted 750 potential ADUs as low-income housing. Even though 759 were constructed, no units were identified as available low-income housing. In addition, none of the cities' zoning codes enforced low-income occupancy. Inferential tests determined that cities with colleges and high incomes were more probable to count ADUs towards overall and low-income housing needs. Furthermore, a city's count of potential ADUs and cities with high proportions of renters maintained positive associations with ADU production, whereas a city's density and prior compliance with state housing laws maintained negative associations. In summary, ADUs did increase local housing inventory and potential ADUs were positively associated with ADU production, but ADUs as low-income housing remained a paper calculation.

November 30, 2020

Exhibit 7

Mayor James Gazeley
City of Lomita
24300 Narbonne Avenue
Lomita, CA 90717

Dear Mayor Gazeley,

We are writing on behalf of **Abundant Housing LA** regarding Lomita's upcoming 6th Cycle housing element update. Abundant Housing LA is a pro-housing education and advocacy organization working to help solve Southern California's housing crisis. We support efforts to reform zoning codes and expand housing production, which are needed to reduce rents, improve access to jobs and transit, strengthen the local economy and job market, and combat segregation. We have a large and growing membership base throughout Los Angeles County.

California has a statewide housing shortage of nearly 3.5 million homes, and has the highest poverty rate in the nation after accounting for housing costs. Households at all levels of income face a historically high rent burden. Exclusionary zoning and longstanding constraints on denser housing have led to an undersupply of medium and high density housing near jobs and transit. This contributes to high rents and displacement of households.

Over the past few years, new state laws (e.g. AB 686 (2018), SB 166 (2017), AB 1397 (2017), SB 828 (2018), SB 35 (2017), etc.) have strengthened the Regional Housing Needs Assessment (RHNA), which sets a housing growth target for individual jurisdictions and requires jurisdictions to update their housing elements in order to achieve these targets.

These changes to state law have led to historically high jurisdiction-level housing growth targets in the upcoming 6th Cycle Housing Element Planning Cycle, and have empowered the state Department of Housing and Community Development (HCD) to enforce appropriately high standards for housing element updates. We are encouraged that Lomita was given a target of **827 new homes, of which 361 must be affordable to lower-income households.**

As jurisdictions start the housing element update process, AHLA seeks to provide guidance on how jurisdictions should fulfill both the letter and the spirit of housing element law. Unfortunately, some jurisdictions are already seeking to skirt their obligation to sufficiently plan to meet their housing needs. AHLA will scrutinize jurisdictions' housing elements, submit comments to HCD as needed, and collaborate closely with nonprofits that bring legal action against jurisdictions that fail to comply with state housing laws.

Of course, AHLA recognizes that the COVID-19 pandemic and resulting economic devastation have made it more difficult for jurisdictions to meet ambitious RHNA targets. But the pandemic has made it even more critical than ever for jurisdictions to solve the region's housing crisis and

encourage economic recovery. We seek to collaborate with you and your team on policy efforts to achieve the RHNA goals.

To that end, we have published a memo, **Requirements and Best Practices for Housing Element Updates: The Site Inventory**, explaining the key legal requirements, as well as HCD and AHLA's recommended best practices, for housing element updates. Additionally, **this checklist provides a summary of our core policy recommendations**. We respectfully encourage you to incorporate the concepts detailed in these documents into Lomita's housing element update.

As your team begins to develop Lomita's housing element update, we would like to draw particular attention to four critical components of the site inventory analysis:

1. Incorporating an estimate of the **likelihood of development** and the **net new units if developed** of inventory sites
2. Using an HCD-recommended "safe harbor" methodology for **forecasting future ADU production**
3. Prioritizing high-opportunity census tracts and well-resourced areas (e.g. near transit, jobs, schools, parks, etc.) when selecting sites for lower-income housing opportunities, in order to **affirmatively further fair housing**
4. Including the HCD-recommended buffer of at least 15-30% extra capacity in the site inventory, in order to **avoid violating the No Net Loss requirement**

Component #1: Housing elements should estimate and report both the **likelihood of development** and the **net new units if developed** of inventory sites.

Just because jurisdictions zone for more housing doesn't mean that the housing will actually be built. The economic cycle, uncertainty of market conditions, the current usage of nonvacant sites, and land use regulations all influence the extent to which rezoned parcels are built to their maximum theoretical capacity.

A parcel's maximum theoretical capacity is not the same as its realistic capacity. To draw a parallel to college admissions, when UCLA wants 2,000 students in its incoming class, they admit 4,000 students. Similarly, to achieve housing production targets, jurisdictions must increase zoned capacity well above the target number of new homes.

An accurate assessment of site capacity is necessary in order for the housing element to achieve sufficient housing production. The site capacity estimate should account for the following **two factors**:

- What is the likelihood that the site will be developed during the planning period?
- If the site were to be developed during the planning period, how many net new units of housing are likely to be built on it?

These are the **likelihood of development**[1] and **net new units if developed**[2] factors, as required by HCD guidelines. The portion of the jurisdiction's RHNA target that a site will realistically accommodate during the planning period is:

***(likelihood of development) x (net new units if developed) = realistic capacity*.**

In past planning cycles, the likelihood of development factor was not expressly considered; housing elements frequently assumed that most or all site inventory locations would be redeveloped to their maximum theoretical capacity. Since this generally did not happen, jurisdictions consistently fell short of their RHNA targets as a result. While Lomita achieved its 5th cycle RHNA targets for very low, low, and moderate income housing, this is because the 5th cycle RHNA goal was extremely low -- just 27 homes!

5th Cycle RHNA Targets vs. Actual Housing Production (2014-19)

Income Bucket	RHNA Target	Homes Permitted
VLI	12	0
LI	7	9
MI	8	35
AMI	20	61
Total	**47**	**105**

According to Lomita's 5th cycle housing element, the city had theoretical capacity for roughly 290 more housing units.[3] Through 2019, Lomita permitted 105 housing units[4], which equates to 140 housing units permitted by the end of the 5th cycle (assuming that the same annual permitting pace continues in 2020 and 2021). This implies that in Lomita, excess zoned capacity has a **48% likelihood of being developed** (140 actual units divided by 290 theoretical units).

Lomita's 6th cycle housing element should incorporate this likelihood of development estimate into its site inventory analysis. This would be consistent with HCD guidelines,[5] while also ensuring that enough zoned capacity is available to encourage 827 housing units to be built by the end of the 6th cycle. Assuming that zoned capacity has a 48% likelihood of being developed in the next 8 years, **the housing element must allow for 1,723 units of zoned capacity in order to achieve 827 actual housing units.** If Planning believes that a higher likelihood of

[1] HCD Site Inventory Guidebook, pg. 20
[2] HCD Site Inventory Guidebook, pg. 21
[3] Lomita 5th Cycle Housing Element
[4] HCD Annual Progress Report dataset, 2020
[5] HCD Site Inventory Guidebook, pg. 20

development (and thus a smaller zoned capacity increase) is justified for certain parcels in the site inventory, persuasive data to support this assumption must be provided.[6]

Component #2: Housing element updates should use an HCD-recommended "safe harbor" methodology for forecasting future ADU production.

Local jurisdictions frequently use overly optimistic estimates of future ADU production to avoid necessary housing reform and rezoning. ADU development estimates must reflect actual on-the-ground conditions to ensure that they are realistic. Overly aggressive ADU production estimates set jurisdictions up for failure in providing the required housing for residents.

To that end, HCD has established two safe harbors for forecasting ADU production during the 6th Cycle[7]. One option ("Option #1") is to project forward the local trend in ADU construction since January 2018. The other, for use when no other data is available ("Option #2"), assumes ADU production at five times the local rate of production prior to 2018. Jurisdictions are also permitted to include programs that aggressively promote and incentivize ADU construction.

Where no other data is available, jurisdictions may assume an average increase of five times the previous planning period construction trends prior to 2018. Jurisdictions may also use regional ADU production trends, and include programs that aggressively promote and incentivize ADU construction. Jurisdictions should clearly and explicitly state their methodology and data sources for future ADU development forecasts.

According to HCD, Lomita issued permits for 2 ADUs in 2017, 3 ADUs in 2018, and 7 ADUs in 2019. Under HCD's "Option #1", Lomita could take the average of the 2018 and 2019 ADU production trends, and forecast that 5 ADUs will be permitted per year during the 6th cycle. This would allow for a **total 6th cycle forecast of 40 ADUs.**

Under HCD's "Option #2", Lomita could multiply the 2017 ADU production trend by five, and forecast that 10 ADUs will be permitted per year during the 6th cycle. This would allow for a **total 6th cycle forecast of 80 ADUs.**

Another, more aggressive, option would take the average of the 2018 and 2019 ADU production trends, and multiply that average by five. This methodology would forecast that 25 ADUs will be permitted per year during the 6th cycle. This would allow for a **total 6th cycle forecast of 200 ADUs.** Abundant Housing LA does not recommend this methodology, since it is not an HCD-defined safe harbor forecasting option.

Lomita should use HCD's Option 1 or 2 safe harbor when projecting annual ADU production. If it believes that higher ADU production forecasts are warranted, it must provide

[6] HCD Site Inventory Guidebook, pg. 20-21
[7] HCD Site Inventory Guidebook, pg. 31

well-grounded estimates, based on the pace of ADU production in neighboring jurisdictions, and must explain programs or policy efforts that could lead to higher ADU production.

Finally, per HCD, the housing element "should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle midpoint to evaluate if production estimates are being achieved."[8] Lomita's housing element should commit to mid-cycle rezoning if ADU production is lower than forecasted, and its midpoint review should be linked with immediate and automatic programs to increase housing production in the second half of the RHNA cycle. AHLA's recommended approach is to incorporate by-right density bonuses on inventory sites, which would automatically take effect mid-cycle if the ADU target is not met. The density bonus should be large enough, and apply to enough parcels, to fully make up for any ADU production shortfall.

Component #3: Housing elements must prioritize high-opportunity census tracts and well-resourced areas (e.g. near transit, jobs, schools, parks, etc.) when selecting sites for lower-income housing opportunities, in order to affirmatively further fair housing.

AB 686 (2018) requires housing element updates to "affirmatively further fair housing", which is defined as "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."

In our region, housing policy and land use regulations were once used to exclude members of minority groups. Redlining and restrictive covenants, which restricted where Black Americans could live, were once commonplace in Lomita and throughout Los Angeles County. Thankfully, Lomita is much more welcoming today; in fact, 31% of the city's population is Latino and 17% is Asian-American.[9] However, exclusion continues on the basis of income: the median home sale price in Lomita was $617,000 in 2018[10], and 50% of the city's renters are "rent-burdened" (i.e. they spend more than 30% of their income on rent)[11]. High housing costs place a disproportionate burden on lower-income communities of color, and have the effect of excluding them from the city altogether.

Jurisdictions must address this issue by accommodating the lower-income RHNA targets in a way that conforms with AFFH requirements. HCD's Site Inventory Guidebook offers recommendations for **how** jurisdictions should accomplish this. HCD is **likely to require jurisdictions to distribute lower-income housing opportunities throughout the jurisdiction**, and recommends that jurisdictions first identify development potential for lower-income housing in high-opportunity neighborhoods[12].

[8] HCD Site Inventory Guidebook, pg. 31
[9] American Community Survey, 2014-18
[10] SCAG Pre-Certified Local Housing Data, Lomita
[11] American Community Survey, 2014-18
[12] HCD Site Inventory Guidebook, pg. 3

Given that single-family, exclusionary zoning predominates in Lomita's high-opportunity census tracts (as defined in the TCAC/HCD Opportunity Map), rezoning is required in order to accommodate the RHNA targets for lower-income households. Additionally, focusing rezoning in single-family zoned areas will expand housing opportunities while minimizing the impact on existing renters in multifamily-zoned areas.

In order to fairly distribute housing opportunities citywide, Lomita should develop a quantitative methodology for scoring neighborhoods, based on factors like housing costs, median income, access to transit, access to jobs, access to schools, and environmental quality. Neighborhoods that score higher on these dimensions should be allocated higher housing growth targets, and rezoning should be based on these neighborhood-level housing growth targets.

Finally, Lomita should identify funding sources, public resources, and density bonus programs to maximize the likelihood that housing projects with below market-rate units are actually built. Local measures like a real estate transfer tax and congestion pricing could help generate new funding to support affordable housing production and preservation.

Component #4: Housing elements should include the HCD-recommended buffer of at least 15-30% extra capacity in the site inventory, in order to avoid violating the No Net Loss requirement.

SB 166 (2017) requires adequate sites to be maintained **at all times** throughout the planning period to accommodate the remaining RHNA target by each income category.[13] This means that if a jurisdiction approves a development on a parcel listed in the site inventory that will have fewer units (either in total or at a given income level) than the number of units (either in total or at a given income level) anticipated in the site inventory, then the jurisdiction must identify and make available enough sites to accommodate the remaining unmet RHNA target for each income category.[14]

If additional sites with adequate zoned capacity don't exist, then the jurisdiction must rezone enough sites to accommodate the remaining unmet RHNA target within 180 days. If the jurisdiction fails to accomplish this rezoning in the required period, then the consequences will include decertification of the housing element and potential state legal action.

To ensure that adequate housing capacity at all income levels exists in the housing element through the 6th Cycle, HCD recommends that "the jurisdiction create a buffer in the housing element inventory of at least 15-30% more capacity than required, especially for capacity to accommodate the lower income RHNA."[15] **Lomita should "overshoot" on total site capacity**

[13] HCD No Net Loss Law Memo, pg. 1
[14] HCD Site Inventory Guidebook, pg. 22
[15] HCD Site Inventory Guidebook, pg. 22

for each income level, in order to ensure that the City's RHNA target is achieved at all income levels.

The City of Lomita has an obligation to sufficiently plan to meet current and future residents' housing needs. The housing element update affords Lomita, and the broader Southern California region, the chance to take bold action on lowering housing costs, reducing car dependency, strengthening the local economy, and guaranteeing access to opportunity for Californians of all racial and ethnic backgrounds. We urge you and your colleagues to fully embrace this opportunity to transform Lomita for the better.

Finally, it is worth noting that state law imposes penalties on jurisdictions that fail to adopt a compliant 6th cycle housing element update by October 15, 2021. On that date, noncompliant jurisdictions will forfeit the right to deny residential projects on the basis of local zoning, so long as projects include at least a 20% set-aside for below market-rate units[16]. Jurisdictions that want to maintain local control over new development should therefore plan to adopt a compliant housing element update on time.

We would be glad to engage with your office and with the Planning Department throughout the housing element update process. We look forward to a productive and collaborative working relationship with the City of Lomita on this critical effort. Thank you for your consideration.

Sincerely,

Leonora Camner
Executive Director
Abundant Housing LA

Anthony Dedousis
Director of Policy and Research
Abundant Housing LA

[16] California Government Code 65589.5(d)(5)

Requirements and Best Practices for Housing Element Updates: The Site Inventory
Abundant Housing LA
August 18, 2020

Table of Contents

Background

California has a statewide housing shortage of nearly 3.5 million homes, and households at all levels of income face a historically high rent burden throughout the state. Exclusionary zoning and longstanding constraints on denser housing production have led to an undersupply of medium and high density housing near jobs and transit, contributing to high rents and displacement of households across Southern California.

Over the past few years, new state laws (e.g. AB 686 (2018), SB 166 (2017), AB 1397 (2017), SB 828 (2018), SB 35 (2017), etc.) have strengthened the Regional Housing Needs Assessment (RHNA), a state-mandated process that sets a housing growth target for individual jurisdictions, and requires jurisdictions to update their housing elements in order to achieve the RHNA targets. These changes have led to historically high jurisdiction-level housing growth targets in the upcoming 6th Cycle Housing Element Planning Cycle, and have empowered the state Department of Housing and Community Development (HCD) to enforce appropriately high standards for housing element updates. As a result, the 6th Housing Element Planning Cycle has the potential to be transformative for our region and to relieve its housing crisis.

As jurisdictions start the housing element update process, Abundant Housing LA (AHLA) seeks to provide guidance on how jurisdictions should fulfill both the letter and the spirit of housing element law. Unfortunately, some jurisdictions are already seeking to skirt their obligation to sufficiently plan to meet their housing needs. AHLA will scrutinize jurisdictions' housing elements, submit comments to HCD as needed, and collaborate closely with nonprofits that bring legal action against jurisdictions that fail to comply with state housing laws.

To that end, we've prepared this report to explain both the key legal requirements and our recommended best practices for the housing element updates. These guidelines will inform how AHLA will review, assess, and comment on housing element updates. We believe that jurisdictions that follow these guidelines will succeed in designing housing element updates that expand the availability of housing at all income levels, reduce longstanding patterns of racial segregation and lack of equal access to high-resource areas, and promote climate-friendly living patterns that increase transit usage and reduce carbon emissions from transportation.

This report is focused on the **site inventory assessment** portion of the housing element update. HCD has provided detailed guidance on requirements and best practices for the site inventory assessment in its Site Inventory Guidebook, and this report identifies the most impactful elements of housing element law and the Guidebook to help jurisdictions simplify their housing element process and implement policies that encourage significant housing production.

Housing element law also requires an analysis of constraints on housing development and a program to mitigate or remove these constraints. This is a substantial topic that merits its own Requirements and Best Practices analysis, and we will address it in a future report. Finally, while this report addresses the legal requirement to affirmatively further fair housing in the site

inventory assessment, it is worth noting that HCD will soon release a technical assistance memo offering more specifics on how to address AFFH requirements in the housing element.

Part 1 - General Principles for Site Inventory Assessment

See HCD's Site Inventory Guidebook, June 2020 for citations and examples

The site inventory and assessment of capacity is the heart of the housing element. But the numerous, sometimes convoluted, requirements and factors for assessing capacity make it easy to lose sight of the big picture. This report presents AHLA's view of the big picture, and explains what we'll be looking for when we review, comment on, and litigate housing elements.

The big picture is this: housing element law aims to bring about the production of the total RHNA target and, where feasible, the subsidiary targets in each income bin.[1] A further goal is to enable the development of relatively low-cost housing types in high-opportunity neighborhoods (Gov't Code 65583(c)(10)), which helps to address jurisdictions' requirement to affirmatively further fair housing (see Part 3). Ambiguities in the law should be worked out with these central objectives in view.

An accurate assessment of site capacity is necessary in order for the housing element to achieve the above central objectives. The site capacity estimate should account for the following **two factors**:

- What is the likelihood that the site will be developed during the planning period?
- If the site were to be developed during the planning period, how many net new units of housing are likely to be built on it?

We call these the **likelihood of development** (pg. 20, Guidebook) and **net new units if developed** (pg. 21, Guidebook) factors. The portion of the jurisdiction's RHNA target that a site will realistically accommodate during the planning period is:

(likelihood of development) x (net new units if developed) = realistic capacity.[2]

In past planning cycles, the likelihood of development factor was not expressly considered, and jurisdictions consistently fell short of their targets. Not accounting for the likelihood factor in a housing plan is like failing to account for the probability of enrollment in a college admissions plan. When UCLA wants a first-year class of 6,000 students, it admits 14,000 high school seniors, knowing that many who are offered admission will decline.

Similarly, not every owner of a suitably zoned site will accept the "offer" to develop it during the planning period. In fact, the median city is on track to develop only 25% of the nominal site capacity of its 5th cycle housing element.

[1] Elmendorf et al, "Making It Work: Legal Foundations for Administrative Reform of California's Housing Framework"

[2] The example calculation of realistic capacity on pg. 21-22 of the Guidebook is instructive here.

Recent amendments to the housing element law, including AB 1397 and SB 6, position HCD to require discounting of the **net new units if development** factor by the likelihood of development factor. The Guidebook directs attention to the likelihood of development factor on pg. 20-22 and pg. 25.

Part 2 - Capacity Assessment for Vacant Sites: Minimum Zoned Density Method

See HCD's Site Inventory Guidebook, pg. 19 for citations and examples

The housing element law provides jurisdictions with a "safe harbor" for counting vacant, residentially zoned sites at their **minimum** zoned density. Although it's not clear that this provision excuses jurisdictions from accounting for the site's likelihood of development, the Guidebook interprets the safe harbor in this way. AHLA will accept this interpretation.

Principal requirements for legal compliance

A housing element that uses the minimum zoned density safe harbor must ensure that "overlay zones, zoning allowing nonresidential uses, or other factors potentially impacting the minimum density" will not preclude development of the site at that density (pg. 19). The only way to provide this guarantee is to declare in the housing element a "fundamental, mandatory, and clear" policy of allowing inventory sites to be developed at the density ascribed to them in the housing element. The housing element is a component of the general plan, and under background principles of state law, any "fundamental, mandatory and clear" policy of the plan supersedes contrary municipal ordinances and regulations, and is judicially enforceable.

Recommended best practices

We counsel against use of the "minimum zoned density" safe harbor, as it may be highly unrealistic. It both ignores the possibility that the site won't be developed at all during the planning period, and the possibility that the site will be developed at a density exceeding the minimum. That said, if a jurisdiction does use the "minimum zoned density" safe harbor, the housing element should certainly declare a "fundamental, mandatory and clear" policy of allowing development at the stipulated minimum density.

Part 3 - Capacity Assessment for Vacant and Nonvacant Sites: Factors Method

See HCD's Site Inventory Guidebook, pg. 19-26 for citations and examples

For vacant sites, the alternative to relying on the "minimum zoned density" safe harbor is to assess capacity using what the Guidebook calls the "factors" or "Step 2" method (pg. 19). The statute lists a number of overlapping factors to be considered, such as "realistic capacity," "current or planned availability and accessibility of sufficient water, sewer, and dry utilities," "typical densities of existing or approved residential developments," and "land use controls and site improvement requirements." (Gov't Code 65583.2(c)(2); Guidebook pg. 19).

The statute is confusing because the various factors are all subsumed by the concept of **realistic capacity** (i.e. **likelihood of development** multiplied by **net new units if developed**), which is itself listed as one of the factors (pg. 20)). For example, if a site doesn't have current or planned access to utilities, the site is very unlikely to be developed during the planning period, and hence has little realistic capacity.

Another section of the statute lists additional factors to be weighed in assessing the capacity of nonvacant sites. These include "the extent to which existing uses may constitute an impediment to additional residential development, ... past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts ..., development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development." (Gov't Code 65583.2(g), Guidebook pg. 24-26). All of these factors bear in one way or another on the two central questions identified in Part 1: **What is the site's likelihood of development during the planning period, and how many net new units will be built if it is developed?** Jurisdictions should estimate site inventory capacity in a way that directly addresses these two questions.

Principal requirements for legal compliance

The factors listed in Gov't Code 65583.2(c) and (g) should not be treated as a mechanical checklist, such that a housing element "complies" if it discusses every factor, and "fails to comply" if it doesn't. Rather, the housing element's analysis of vacant site capacity (using the factor method) and of nonvacant site capacity, should focus on whether the jurisdiction reasonably assessed both the **likelihood of development** and the **net new units if developed** of the sites in the inventory.[3]

Every housing element should **report the proportion of sites from the previous housing element's inventory that were developed** during the previous planning period. This proportion need not be used as a proxy for current inventory sites' likelihood of development, but it provides a starting point, especially "[i]f no information about the rate of development of similar parcels is available." (Guidebook, pg. 21) A jurisdiction may find that current inventory parcels have a higher likelihood of development, possibly owing to new "market conditions" or "regulatory or other incentives" that the jurisdiction had enacted to facilitate the sites' development (Gov't Code 65583.2(g)). But if the housing element assumes a likelihood of development for a given site that is higher than the likelihood implied by past performance, the assumption requires justification ("The methodology analysis must describe how each of these adjustments was generated" (pg. 21)).

Again, jurisdictions must estimate and report both the **likelihood of development** and the **net new units if developed** of inventory sites. This requirement doesn't impose a single methodology for **how** jurisdictions should estimate these two factors. Rather, this requirement

[3] During economic recessions, the rate of housing development usually falls. A housing element's assessment of development likelihood may properly focus on normal years, not recession or pandemic years.

improves accountability (e.g. makes it easier to compare capacity assessment methodologies across jurisdictions) while leaving jurisdictions flexibility to estimate the two factors in any reasonable manner.

For this reason, AHLA will scrutinize housing elements to ensure that jurisdictions provide both a “likelihood of development” and a “net new units if developed” number for every parcel in the inventory (excluding vacant sites counted at their minimum zoned density), as well as a reasonable justification for likelihood of development estimates that exceed the rate of development from the previous housing element’s inventory.

If the analysis of inventory sites’ capacity reveals a shortfall (relative to the RHNA) under current zoning, the housing element must include rezoning programs to make additional capacity available (Gov’t Code 65583(c)(1)). These rezoning programs should be described with enough specificity for site owners to determine how much they will be allowed to build. The Housing Accountability Act (HAA) disallows jurisdictions from denying or reducing the density of projects (with at least a 20% affordable set-aside) if the project is “consistent with the density specified in the housing element, even though it is inconsistent with ... the jurisdiction’s zoning ordinance.” (Gov’t Code 65589.5(d)). The HAA thus presupposes that housing elements will include site-specific plans for accommodating the RHNA, even if the plan necessitates greater density than the zoning code currently allows.

Recommended best practices

To ensure that inventory sites can actually be built to the intended density, AHLA recommends that jurisdictions declare a “fundamental, mandatory, and clear” policy of allowing development of the number of units anticipated in the housing element. The policy should also declare an average unit size that will be allowed on the site. These declarations would entitle developers to an exception from local ordinances and regulations that physically preclude development of inventory sites to the scale and density anticipated in the housing element. The declaration may provide for exceptions if development would have an adverse health or safety impact within the meaning of the Housing Accountability Act. (Gov’t Code 65589.5(j)).

Because development trends and market conditions are subject to change, AHLA recommends that housing elements provide for mid-cycle adjustments if inventory sites are developed at lower rates, or lesser densities, than the housing element anticipated. The mid-cycle adjustment could take the form of:

- An automatic density bonus on inventory sites
- An option for developers to elect ministerial permitting of projects on inventory sites
- A procedure for developers to obtain waivers of fee, exaction, or parking and design requirements that make it economically infeasible to develop inventory sites to the density the housing element anticipated

Part 4 - Site Selection and the Duty to Affirmatively Further Fair Housing

See HCD's Site Inventory Guidebook, pg. 9, and HCD's AB 686 Summary of Requirements in Housing Element Law, April 2020 for citations and examples

High-income neighborhoods with good access to jobs, transit, schools, and parks tend to have very high housing costs. Racially motivated zoning created many of these neighborhoods, and today's single-family zoning reinforces historical patterns of racial and income segregation, disproportionately harming Black and Latino communities.

AB 686 requires jurisdictions to analyze fair housing issues and to affirmatively further fair housing (AFFH) through their housing element. It's no longer permissible to allow relatively affordable housing to be built only in areas of socioeconomic disadvantage.

Below, we summarize AHLA's understanding of the AFFH requirements in relation to housing elements, specifically the site inventory and associated rezoning programs. HCD intends to release a technical assistance memo about AFFH requirements (Guidebook, pg. 9), and we will update our guidance after that memo is released.

Principal requirements for legal compliance

The new AFFH duty encompasses **analytic, programmatic, and procedural** requirements. Housing elements must analyze "available federal, state, and local data and knowledge to identify integration and segregation patterns and trends, racially or ethnically concentrated areas of poverty, disparities in access to opportunity, and disproportionate housing needs within the jurisdiction, including displacement risk." (Gov't Code 65583(c)(10)). The analysis must dig into causes as well as patterns (Gov't Code 65583(c)(10)(iii)).

AHLA will monitor housing elements to ensure that the fair housing analysis **acknowledges any publicly available data or reports about the history of overt racial or ethnic discrimination in the jurisdiction's housing and land development market.** This includes racial covenants, racially discriminatory lending, and the adoption of exclusionary zoning in response to actual or feared demographic change.

With respect to the site inventory and rezoning programs, a housing element must not concentrate opportunities for affordable housing development in areas of segregation or high poverty. Rather, "sites must be identified throughout the community in a manner that affirmatively furthers fair housing." (Guidebook, pg. 9). Additionally, the site inventory must not only include an analysis of site capacity to accommodate the RHNA target for each income level, "but also whether the identified sites serve the purpose of replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity" (pg. 6, AB 686 Summary).

The TCAC/HCD Opportunity Area Maps, which characterize existing socioeconomic patterns at the census tract level, can be used to gauge compliance with this requirement. **AHLA will oppose housing elements that fail to accommodate at least a pro-rata portion of the lower-income RHNA in high-opportunity census tracts** (e.g. if 30% of a jurisdiction's land area is located in high-opportunity tracts, then at least 30% of the lower-income RHNA should be allocated to such tracts.)

Regarding procedure, the jurisdiction "shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort." (Gov't Code 65583(c)(7)). Housing elements should not cater to the predominantly wealthy, white, and homeowning populations that customarily dominate land-use policy forums.

Recommended best practices

Analysis: AHLA recommends that jurisdictions set up a public web portal to elicit studies and other information about the history of overt racial, ethnic, and socioeconomic discrimination in their community. This portal should go online at least one year prior to the target date for completing the draft housing element.

Programs: Particularly in communities with a history of discrimination and substantial racial or socioeconomic segregation, housing elements should go beyond the minimal duty not to further concentrate lower-income housing in disadvantaged areas. As the Guidebook explains (p. 9), jurisdictions should try to accommodate as much of the lower-income RHNA as possible on sites with:

- Proximity to transit
- Access to high performing schools and jobs
- Access to amenities, such as parks and services
- Access to health care facilities and grocery stores
- No need for environmental mitigation

A housing element must affirmatively "[a]ssist in the development of adequate housing to meet the needs of extremely low, very low, low, and moderate-income households" (Gov't Code 65583(c)(2)). The AFFH program should use available public resources, including real estate transfer taxes, publicly owned land, and the potential for "super" density bonuses (in excess of those under state law) for projects with below-market-rate units. **Simply rezoning parcels to the density that state law deems suitable for affordable housing isn't enough.**

Procedure: To overcome bias in patterns of public participation, jurisdictions should sample a random cross-section of the community (e.g., from voter or jury rolls), and elicit the respondents' preferences and priorities regarding zoning and residential development. If response rates vary with demographic or geographic characteristics of respondents, the survey results should be reweighted accordingly so that they more accurately reflect the distribution of opinion within the community.

Additionally, when the jurisdiction takes public comment on its draft housing element, it should require commentators to provide their name and address. Comments from people whose name or address cannot be verified should be disregarded. Names should be matched to property tax records (to determine whether the commentator is a homeowner), and addresses should be matched to census tracts (to determine whether the commentator lives in a high-opportunity or low-opportunity neighborhood). If the pattern of participation proves to be demographically skewed, the jurisdiction should give less weight to the comments.

Part 5 - Findings Required if the Housing Element Assigns >50% of the Lower-Income RHNA Target to Nonvacant Sites

See HCD's Site Inventory Guidebook, pg. 26-28 for citations and examples

If a housing element assigns more than 50% of the lower-income RHNA to nonvacant sites, the jurisdiction must make findings supported by "substantial evidence" that the sites' existing uses are "likely to be discontinued during the planning period." (Gov't Code 65583.2(g)(2)).

This "findings requirement" should be approached with practical considerations in view. In communities where most sites have already been developed, there are real advantages to assigning the lower-income RHNA target to nonvacant sites. This tends to advance fair housing goals, as vacant sites in already-developed jurisdictions are likely to be concentrated in poor communities. Moreover, by spreading the RHNA target over a large number of sites, a jurisdiction hedges against the risk of unanticipated development barriers on any given site. Much as the prudent investor diversifies her portfolio of assets (rather than trying to pick a few "winning" stocks), the prudent jurisdiction plans to accommodate its RHNA target on a large and diverse portfolio of sites.

However, the Guidebook implies (pg. 26-28) that if a jurisdiction assigns more than 50% of its lower-income RHNA to nonvacant sites, the jurisdiction must make findings about the discontinuation of existing uses **for each individual site**. This becomes increasingly impractical as the number of sites grows. As such, it could discourage jurisdictions from pursuing prudent, diversified strategies for site capacity and fair housing compliance.

Principal requirements for legal compliance

It's not yet clear what courts will deem sufficient to satisfy the "findings requirement". To encourage diversification, AHLA endorses Monkkonen et al.'s proposal to interpret "likely to be discontinued" to mean "more likely to be discontinued than the development probability claimed for the site." Since redevelopment **by definition** requires discontinuation of the current use, the findings requirement should be deemed satisfied if:

- The housing element discounts inventory sites' "net new units if developed" by the likelihood of development, using factors supported by substantial evidence, and

- The aggregate realistic capacity of the housing element's lower-income inventory sites equals or exceeds the RHNA target.

In a recent webinar, HCD presenters interpreted "likely to be discontinued" to mean "a greater than 50% chance of being discontinued." Though different from Monkkonen et al.'s approach, this interpretation is also reasonable. However, it may unnecessarily hinder the distribution of the lower-income RHNA to nonvacant sites, particularly if site-specific discontinuation-of-use findings are required.

Recommended best practices

To the extent that jurisdictions adopt the "greater than 50%" interpretation, AHLA encourages jurisdictions to use statistical methods to justify the requisite findings, at least for housing elements that rely on large numbers of nonvacant sites.

For example, a jurisdiction or its Council of Governments could survey a random sample of owners of nonvacant sites, asking whether they intend to discontinue their current use during the next eight years. If 40% of the site owners answer affirmatively, the jurisdiction could assume that 40% of its nonvacant inventory sites satisfy the "existing uses are likely to be discontinued" condition. The housing element's nonvacant site capacity (for lower-income housing) would be deemed sufficient if the jurisdiction's lower-income RHNA could realistically be accommodated on 40% of such sites, chosen at random from the inventory. This is a way for jurisdictions to comply with the statutory findings requirement while employing a large, diversified portfolio of inventory sites.

Part 6 - Forecasts of ADU Development and Credits for Anticipated Production

See HCD's Site Inventory Guidebook, pg. 30-32 for citations and examples

Local jurisdictions frequently use overly optimistic estimates of ADU capacity and future production to avoid necessary housing reform and rezoning. ADU development estimates must reflect actual on-the-ground conditions to ensure that they are realistic. This will maximize the likelihood that ADUs will be built to the level forecasted in the housing element update.

Principal requirements for legal compliance

Housing element law and the Guidebook allow jurisdictions to count anticipated ADU production on non-inventory sites toward the jurisdiction's RHNA target. The analysis of ADU capacity must be "based on the number of accessory dwelling units developed in the prior housing element planning period," and "other relevant factors." (Gov't Code 65583.1).

Fundamentally, the assessment of ADU capacity is no different from the assessment of capacity for any other type of housing. The ultimate question is: **what is the realistic housing production yield that can be anticipated during the planning period?** The answer depends

on the number of sites, the sites' likelihood of development, and the number of units likely to be built on each site in the event of development.

To that end, the Guidebook establishes two safe harbors for forecasting ADU production during the 6th Cycle (pg. 31). One option is to project forward the local trend in ADU construction since January 2018. The other, for use when no other data is available, assumes ADU production at five times the local rate of production prior to 2018. Jurisdictions are also permitted to use trends from regional production of ADUs, and include programs that aggressively promote and incentivize ADU and JADU construction.

The housing element "should also include a monitoring program that a) tracks ADU and JADU creation and affordability levels, and b) commits to a review at the planning cycle midpoint to evaluate if production estimates are being achieved." (pg. 31). "Depending on the finding of that review, amendments to the housing element may be necessary, including rezoning pursuant to Government Code 65583.2 (h)and (i)." (pg. 31). This provides a fail-safe in the event that ADU development falls short of forecasted production by the midpoint of the planning cycle.

Recommended best practices

Jurisdictions should clearly explain their methodology and data sources for forecasting ADU development. The data and models should be shared publicly online.

A housing element's provision for mid-cycle adjustment should be feasible to implement at the midpoint of the cycle. Rezoning is generally a multiyear process, often involving extensive CEQA review and litigation. Rezonings initiated at the midpoint may result in little (if any) new zoned capacity during the planning period.

AHLA therefore recommends that jurisdictions proactively plan for the possibility of an ADU shortfall by either:

- Providing in the housing element for by-right density bonuses on inventory sites, which would become automatically available mid-cycle if the ADU target is not met, or
- Completing a fallback rezoning during the first half of the cycle, which would take effect at mid-cycle if the ADU target is not met.

Given the choice between these two approaches, we recommend the first one. It is more transparent and predictable, and it also avoids wasting resources on a rezoning program that may never be adopted.

The density bonus should be large enough, and apply to enough parcels, to fully make up for any ADU production shortfall. For example, if the parcels designated for the bonus have realistic capacity under current zoning of 5,000 units (in the aggregate), and the ADU production shortfall during the first half of the cycle was 1,000 units, the "make up" density bonus would entitle developers to 20% (1,000 / 5,000) more density on each inventory site than the zoning

otherwise allows. To ensure that use of the bonus is economically feasible, no below-market-rate requirements should attach to it.

Part 7 - No Net Loss

See HCD's Site Inventory Guidebook, pg. 22, and HCD's No Net Loss Law Memo, November 2019 for citations and examples

California's No Net Loss law requires jurisdictions to maintain adequate site capacity throughout the planning period. Gov't Code 65863. SB 166 (2017) amended this law to require maintenance of site capacity **by income category**, not just in the aggregate.

Principal requirements for legal compliance

If a jurisdiction downzones a site inventory parcel, or approves a project with fewer units at the targeted affordability level than the housing element planned to accommodate on the site, then the jurisdiction must ensure that it has enough remaining inventory capacity to accommodate the remaining unmet RHNA target at that affordability level (Guidebook, pg. 22). If additional sites with adequate zoned capacity don't exist, the jurisdiction must rezone enough sites to accommodate the remaining unmet RHNA within 180 days. A failure to rezone within this window may result in decertification of the housing element and legal action.

Recommended best practices

Six months is a small window of time for rezoning, and likely sets the stage for a messy, rushed process that results in suboptimal housing policy and litigation risk. To avoid this situation, jurisdictions should take proactive steps when creating their housing element to ensure adequate site capacity throughout the planning period. AHLA endorses HCD's recommendation that jurisdictions "create a **buffer in the housing element inventory of at least 15-30%** more capacity than required, especially for capacity to accommodate the lower income RHNA." (Guidebook, pg. 22).

Part 8 - What If the RHNA Target is Not Realistic?

Having realistically assessed site capacity and potential ADU production, and having developed a housing element that meets AFFH and No Net Loss Law requirements, a jurisdiction may still conclude that the RHNA target itself is unachievable or unrealistic. What then?

We must distinguish two senses in which the RHNA target may be unrealistic. First, it could be practically impossible for the jurisdiction to achieve its targets by income bin without "expend[ing] local revenues for the construction of housing, housing subsidies, or land acquisition." (Gov't Code 65589.9(a)). Second, it could be practically impossible for the jurisdiction to provide sufficient capacity to achieve the aggregate target, without regard to affordability levels, owing to a lack of demand for housing, high-value existing uses, or construction costs that are high for reasons beyond the jurisdiction's control.

In the first scenario, the jurisdiction's problem is more apparent than real. This is because the law allows sites to be counted toward the lower-income target if they are zoned to allow certain densities (30 units per acre in metropolitan counties), regardless of whether market-rate units are more likely than subsidized units to be constructed on the sites (Gov't Code 65583.2(c); Guidebook, pg. 13). To achieve minimum legal compliance, the jurisdiction just needs to zone at the stipulated density and include a capacity buffer for ongoing compliance with No Net Loss law. The same goes for moderate-income housing. Statutory densities deemed adequate for lower-income housing are adequate for moderate-income housing too. (Of course, AHLA expects jurisdictions to both zone for **and** fund subsidized affordable housing. Local funding sources and other incentives, like density bonus programs, can ensure that lower-income housing is actually built; see pg. 8 of this memo.)

In the second scenario, where weak demand or unavoidably high construction costs make it impractical to provide sufficient site capacity, the jurisdiction may be able to achieve compliance by assigning its RHNA target to vacant sites and using HCD's safe harbor for counting vacant sites at their minimum zoned density, regardless of likelihood of development (Guidebook, pg. 19). Alternatively (and preferably) the jurisdiction could comply by committing through its housing element to aggressive rezoning and constraint removal programs, with the goal of creating as much realistic capacity as is feasible.

Concurrently, the jurisdiction would set "quantified objectives" for housing production in each income bin, commensurate with its rezoning and constraint removal programs. These quantified objectives may be smaller than the RHNA targets. (See Gov't Code 65583(b)(2): "[if] total housing needs ... exceed available resources and the community's ability to satisfy this need ..., the quantified objectives need not be identical to the total housing needs"). However, a jurisdiction should never set quantified objectives below its RHNA targets without exhausting all practicable options for increasing housing production during the planning period. AHLA will carefully monitor jurisdictions' use of the quantified objectives proviso.

HdL Companies

ISSUE UPDATE
JANUARY 2021

AB 147 Marketplace Facilitator Act – Full Implementation

The California Marketplace Facilitator Act, carried out under AB 147 in response to the Supreme Court's "Wayfair" decision in 2018, has now completed the initial four quarters of full implementation. Impacts from this legislation are discussed below.

The background and key provisions of this law can be found in our April 2019 Issue Update.

THE MARKETPLACE FACILITATOR ACT

Assembly Bill 147 required out-of-state retailers meeting specific requirements to collect and remit California's sales, use and transactions taxes effective April 1, 2019; however, marketplace facilitators were not required to begin reporting until October 1, 2019.

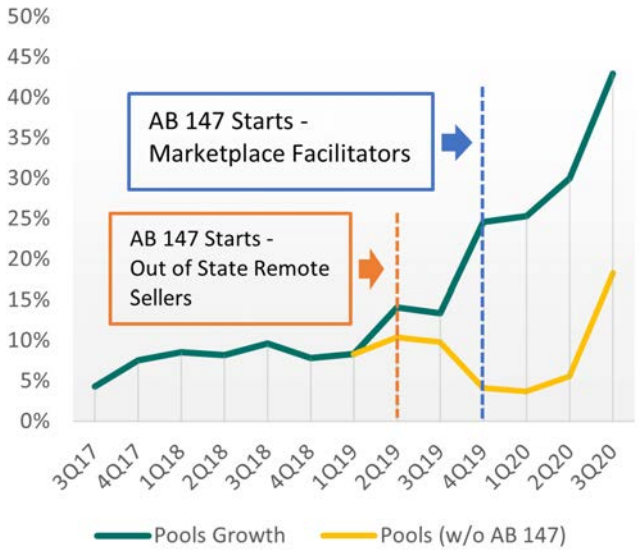
> ***Marketplace Facilitator Requirements:*** *Beginning October 1, 2019, the marketplace facilitator (who functions as the retailer) must obtain a state permit to collect and remit use tax on all sales of tangible personal property into California, including those sales made on behalf of its marketplace sellers, if the marketplace facilitator's cumulative annual sales into California meet the $500,000 economic nexus threshold. In determining cumulative sales, a marketplace facilitator shall include sales of tangible personal property made on its own behalf plus transactions processed through its marketplace on behalf of third-party sellers.*

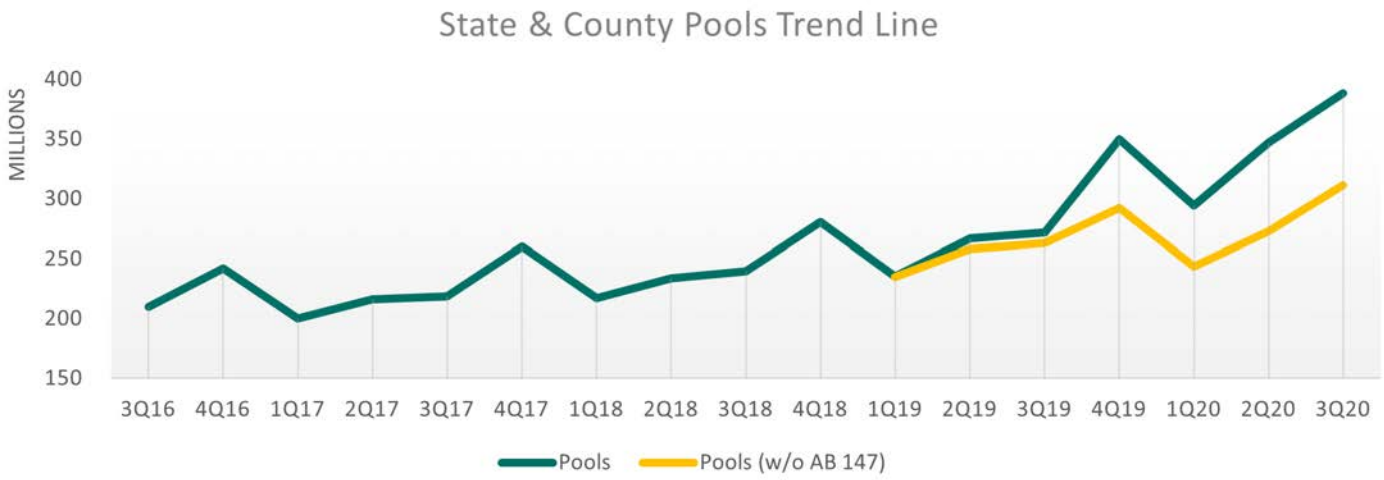
LOCAL JURISDICTION REVENUE – COUNTY POOLS

HdL has been reviewing new accounts in an effort to identify and track AB 147 impacts on city and county revenues across the state.[1] This new local tax revenue is allocated indirectly through the county-wide use tax pools system. With one year of Marketplace filings now completed, new taxes (the Bradley-Burns 1% rate) distributed though the county-wide pools were nearly $260 million.

The four-quarter state & county pools totals beginning October 1, 2019 saw $1.4 billion indirectly allocated to cities and counties with Wayfair based tax collections accounting for 19% of these receipts.

When measuring results from 4Q19 through 3Q20, the pools have averaged growth of 31% each quarter compared to the same period in the prior year. After removing revenue identified with AB 147, countywide pools averaged just 8% growth. The chart below illustrates the significant impact on pools revenues coming from new Wayfair taxpayers.





The vigorous gains spurred by current requirements on remote sellers has created a new baseline for pools allocations. Looking ahead, although recent acceleration to online buying should continue growing the pools, future gains in this sector are expected to subside to levels moderately better than pre-Wayfair historical levels.

CORONAVIRUS AND THE ECONOMIC IMPACTS

There is no question that as California began its battle with the Coronavirus, local government revenues were expected to be negatively impacted. Contrary to early assumptions last spring, the decline of taxable sales and by extension the 1% tax receipts were not as severe despite statewide restrictions for most communities. As consumers were forced to adapt to buying through new channels, the shift to online shopping forged ahead at a record pace. Marketplace facilitators along with other direct to consumer retailers emerged as clear winners because both necessity and discretionary spending moved away from brick-and-mortar stores.

The following chart offers a recent quarterly breakdown of new local tax revenue that somewhat mitigated economic hardships on local agencies during the pandemic.

Typically, retail spending peaks in the fourth quarter of each year during the holiday shopping season. As shown in the above line graph, public health and safety restrictions combined with federal stimulus induced a more rapid shift in consumer shopping habits beginning in April 2020. Local tax reported by AB 147 accounts increased 29% and 34% in the second and third quarters of 2020 respectively compared to the initial filing quarter of October through December 2019. This elevated performance from new accounts is expected to wane as physical stores reopen and brick-and-mortar retailers regain lost momentum.

CALIFORNIA FISCAL IMPACT

Based on local tax collections, HdL estimates over $26 billion in taxable sales have been reported through new AB 147 accounts generating nearly $1.9 billion in statewide sales and use tax revenue, not including add-on district taxes.

California Fiscal Impact
AB 147 Marketplace Facilitator Act (4Q19 – 3Q20)

Taxable Sales	26 Billion
Statewide Sales & Use Tax (7.25%)	$1.9 Billion

State General Fund (3.9375%)	$1.02 Billion
County Public Safety (0.5%)	$130 Million
County Realignment (1.5625%)	$405 Million
Local Jurisdiction (1%)	$260 Million
Local Transportation Fund (0.25%)	$65 Million

data is rounded

Due to the size and market population, many major online retailers previously established nexus in California prior to AB 147 mandates. Therefore, portions of the revenue this law was designed to capture were already being collected.

CONCLUSION

Although AB 147 captured taxes not previously collected, COVID-19 restrictions further boosted sales from remote sellers and marketplace facilitators which partially mitigated statewide declines in retail spending resulting from the pandemic crisis. Absent the implementation of the Marketplace Facilitator Act, local jurisdictions would be even more negatively impacted by economic pressures as the ongoing battle tied to the spread of and response to COVID-19 continues.

TOP 25 IDENTIFIED AB 147 TAXPAYERS[1]

Below is a current list of the top 25 taxpayers that HdL identified as collecting and remitting new sales and use tax as a result of the Marketplace Facilitator Act.

1661, Inc (GOAT)
Adorama Inc
Alibaba.com
Amazon.Com Services Inc
Asos.com
Autosales, Inc
B&H Foto & Electronics
Blue Nile
Boxy Charm Inc
Etsy, Inc
Facebook
Florists Transworld Delivery
Gilt Groupe LP
Groupe Atallah Inc (SSENSE)
Mercari App
Poshmark
Reverb.com
Rockauto
Savvas Learning Company
Sweetwater Sound
The Tire Rack
Wal-Mart.Com USA LLC
Webstaurant Store
Wish
Zoetop Business Co. (Shein)

[1]***HdL Identified Accounts:*** *HdL reviews data provided by the CDTFA to identify new taxpayers related to AB 147 using the following general criteria. Due to the volume of accounts the list is not exhaustive.*

1. *New local tax being allocated through the county pools beginning in 2Q-2019*
2. *Taxpayer account as an effective date of April 1, 2019 or later*
3. *Has an online store or eCommerce presence*
4. *Does not replace a prior California resale account*

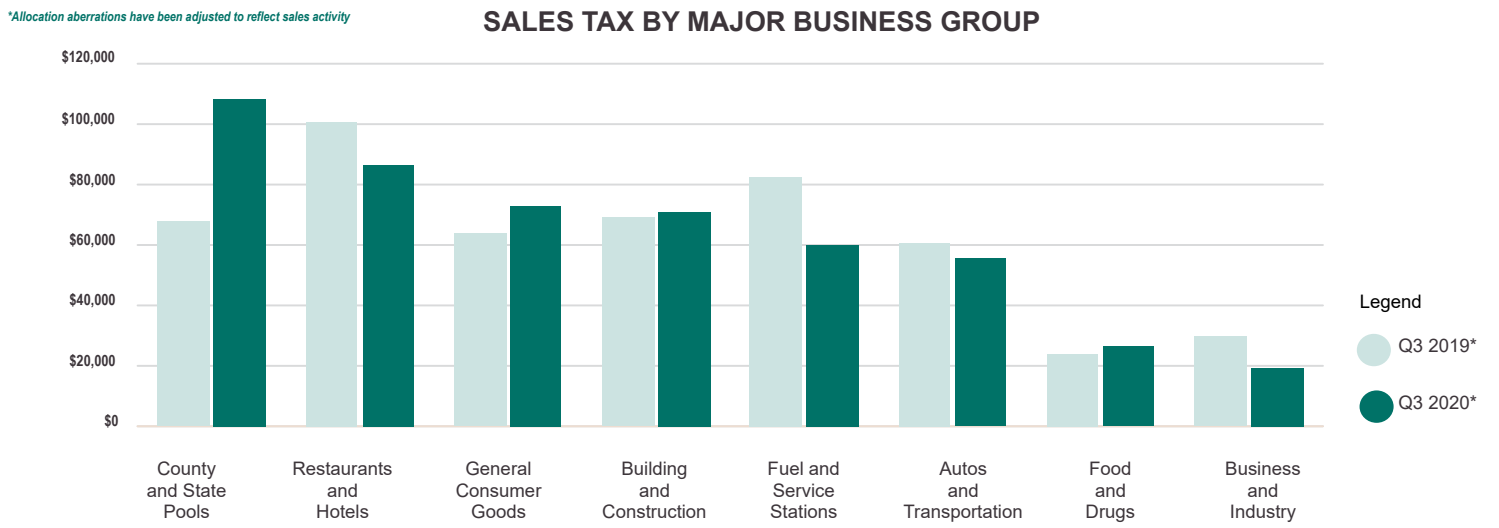
Additional Resources

- *Use Tax Collection Requirements Based on Sales into California Due to the Wayfair Decision*
- *Tax Guide for Marketplace Facilitator Act*

CITY OF LOMITA
SALES TAX UPDATE
3Q 2020 (JULY - SEPTEMBER)

LOMITA	0.6%	-6.0%	-1.0%
TOTAL: $ 501,200	3Q2020	COUNTY	STATE

*Allocation aberrations have been adjusted to reflect sales activity



CITY OF LOMITA HIGHLIGHTS

Lomita's receipts from July through September were 5.3% above the third sales period in 2019. Excluding reporting aberrations, actual sales were up 0.6%.

The resurgence of COVID-19 cases in Southern California and extended stay at home orders combined with crude oil oversupply resulting from the OPEC–Russia price war led to a slower-than-expected recovery for fuel-service stations

Restrictions on dine-in restaurants operations at the state and local levels resulted in a significant decline overall in revenue for 3Q20. The business-industry sector experienced a dip largely due to forced shutdowns and suppressed orders.

The autos-transportation sector suffered as consumers parked their vehicles and delayed car maintenance and new purchases. Food-drugs posted gain in 3Q20, with consumers flocking to the few open retail stores.

In comparison to other large markets, the stability of the Southern California construction market is a cause for optimism. Consumer spending increased in the third quarter as more retail stores re-opened.

The City's share of the countywide use tax pool increased 59.7% when compared to the same period in the prior year.

Net of aberrations, taxable sales for all of Los Angeles County declined 6.0% over the comparable time period; the Southern California region was down 1.6%.

TOP 25 PRODUCERS

7 Eleven
99 Cents Only
Arco AM PM
AutoZone
Battaglia's Tile
Big Lots
Burger City Grill
Carl's Jr
CVS Pharmacy
Cycle Gear
Discount Pool & Spa Supply
Dominos Pizza
Enterprise Rent A Car
Ezell Company
Harbor Freight Tools
Hertz Rent A Car
Jims Auto Sales
Lomita Feed Store
Lomita Shell
Pacific Coast Hobbies
Pacific Shop
Popeyes Louisiana Kitchen
South Bay Baseball Cards
Taco Bell/Pizza Hut
Thompson Building Materials

STATEWIDE RESULTS

The local one-cent sales and use tax from sales occurring July through September was 0.9% lower than the same quarter one year ago after factoring for accounting anomalies. The losses were primarily concentrated in coastal regions and communities popular with tourists while much of inland California including the San Joaquin Valley, Sacramento region and Inland Empire exhibited gains.

Generally, declining receipts from fuel sales, brick and mortar retail and restaurants were the primary factors leading to this quarter's overall decrease. The losses were largely offset by a continuing acceleration in online shopping that produced huge gains in the county use tax pools where tax revenues from purchases shipped from out-of-state are allocated and in revenues allocated to jurisdictions with in-state fulfillment centers and order desks.

Additional gains came from a generally solid quarter for autos, RV's, food-drugs, sporting goods, discount warehouses, building material suppliers and home improvement purchases. Some categories of agricultural and medical supplies/ equipment also did well.

Although the slight decline in comparable third quarter receipts reflected a significant recovery from the immediate previous period's deep decline, new coronavirus surges and reinstated restrictions from 2020's Thanksgiving and Christmas gatherings compounded by smaller federal stimulus programs suggest more significant drops in forthcoming revenues from December through March sales.

Additionally, the past few quarter's gains in county pool receipts that were generated by the shift to online shopping plus last year's implementation of the Wayfair v. South Dakota Supreme Court decision will level out after the first quarter of 2021.

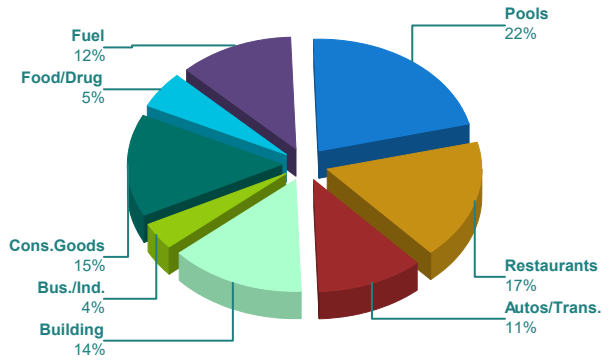
Much of the initial demand for computers and equipment to accommodate home schooling and remote workplaces has been satisfied. Manufacturers are also reporting that absenteeism, sanitation protocols, inventory and imported parts shortages have reduced production capacity that will not be regained until mass vaccines have been completed, probably by the fall of 2021.

Significant recovery is not anticipated until 2021-22 with full recovery dependent on the specific character and make up of each jurisdiction's tax base. Part of the recovery will be a shift back to non-taxable services and activities. Limited to access because of pandemic restrictions, consumers spent 72% less on services during the third quarter and used the savings to buy taxable goods.

Full recovery may also look different than before the pandemic. Recent surveys find that 3 out of 4 consumers have discovered new online alternatives and half expect to continue these habits which suggests that the part of the recent shift of revenues allocated through countywide use tax pools and industrial distribution centers rather than stores will become permanent.

REVENUE BY BUSINESS GROUP

Lomita This Quarter*



*ADJUSTED FOR ECONOMIC DATA

TOP NON-CONFIDENTIAL BUSINESS TYPES

Business Type	Q3 '20	Lomita Change	County Change	HdL State Change
Building Materials	66,827	4.5% ↑	12.1% ↑	16.4% ↑
Service Stations	60,063	-27.3% ↓	-34.8% ↓	-28.9% ↓
Quick-Service Restaurants	39,217	24.9% ↑	-13.5% ↓	-10.1% ↓
Casual Dining	37,544	-37.0% ↓	-42.0% ↓	-38.0% ↓
Specialty Stores	26,937	36.6% ↑	-13.1% ↓	-8.8% ↓
Transportation/Rentals	16,471	-14.6% ↓	-41.5% ↓	-33.0% ↓
Convenience Stores/Liquor	13,132	16.0% ↑	15.9% ↑	15.2% ↑
Auto Repair Shops	11,986	-18.6% ↓	-21.1% ↓	-13.7% ↓
Fast-Casual Restaurants	9,092	13.4% ↑	-17.7% ↓	-14.2% ↓
Automotive Supply Stores	7,128	-13.8% ↓	0.5% ↑	5.6% ↑

Allocation aberrations have been adjusted to reflect sales activity