

Processing Housing Development Applications under SB 330

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Housing Crisis Act of 2019 (AKA SB 330) - 2025

A. SB 330 amended the Housing Accountability Act (HAA), Permit Streamlining Act (PSA) and added new sections to the housing laws (i.e., preliminary application process, five hearing limitation, Housing Crisis Act forbidding downzoning).

B. Applies to a “housing development project” which is a project containing any of the following:

- residential units only (see slide at p. 10 to determine what sections within SB 330 apply to one- and two-unit projects);
- a mix of commercial and residential uses, with 2/3 of the project’s square footage used for residential purposes; or
- transitional or supportive housing.

C. SB 330 did not make changes to the California Environmental Quality Act (CEQA).

Filing Preliminary Application

New section in the law that allows the filing of a preliminary application (“PA”).

- A. PA – vests ordinances, policies and standards, including fees, in effect a time of filing. GC §65589.5(o)(i) and (4); PA is “deemed complete” at the time of submittal if it contains all elements in GC §65941.1.
- B. Agency not required to provide affirmative determination regarding completeness of PA.
- C. Agency may require “reasonable fee” to provide service on accepting/reviewing.
- D. Development project applications (i.e., tentative map, development plans, design review) must be filed within 180 days after filing of PA; if not filed on time, PA expires.

Filing Development Project Application After PA Filed

A development project application must be filed within the following timelines to take advantage of the PA:

- A. 30 days – Agency confirms application is complete by determining if it includes all material on agency’s submittal checklist. If not complete, agency must list information missing from checklist. GC §65941(d)(2)
- B. 90 days – Applicant provides additional information requested by agency. If applicant fails to timely respond, PA expires. GC §65941.1(d)(2)
- C. Agency and applicant can mutually agree to extend these timelines.

If the project described in the PA is revised such that the number of residential units or square footage of construction changes 20% or more (excluding density bonus waivers/concessions), the PA expires for the original project. GC §65941.1(c)

Permit Streamlining Act

Amendments to the Permit Streamlining Act:

Agency must post on website a list of zoning ordinances and development standards that “apply to each parcel” and items needed to deem application complete.

GC §65940.1(a)(1)

A. Within 30 days of filing a development project application, if agency determines an item(s) is missing from the list it must provide an exhaustive written list why the application is incomplete. Can't require submittal of materials not on application checklist. Otherwise, it is automatically deemed complete. GC §65943(a)

B. Applicant may submit requested material to agency; no timeline to respond.

C. Agency has 30 days to respond to submitted materials from applicant. GC §65943(b). Can not request new information that was not identified in initial list of items that were not complete. GC §65943(b)

D. If agency determines application and submitted materials are not complete, agency must provide appeal process; final written determination on appeal must be made within 60 days after agency received the appeal. GC §65943(c)

E. These timelines can be extended if both agency and applicant agree. GC §65943(d). If agency fails to respond after one of its 30-day review periods, or fails to timely provide appeal determination, the application is “deemed” complete. GC §65943(a),(b) and (c)

Determination of Inconsistency with Applicable Objective Plan, Program, Policy, Ordinance, Standard, or Other Requirements and Must Explain Inconsistency.

- A. After a complete development project application for a housing development project is submitted, agency must identify any applicable objective plan, program, policy, standards or other requirements that the project is not consistent with under the timelines below.
- 30 days from deemed complete date of project application (not Preliminary Application) for 150 or fewer units. GC §65589.5(j)(2)(A)(i)
 - 60 days from deemed complete date of project application (not Preliminary Application) for more than 150 units. GC §65589.5(j)(2)(A)(ii)
- B. An agency's failure to identify inconsistencies results in the project being deemed consistent with all objective planning standards.

Application of Objective Development Standards

- A. HAA states a housing project may not be denied or its density reduced if it is consistent with “objective, quantifiable, written development standards, conditions and policies” unless specific findings are made. GC §65589.5(j)(1).
- B. “Objective standard” involves no personal or subjective judgment by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by the applicant and public official. GC §65589.5(h)(8).
- C. Project is deemed consistent if there is substantial evidence in the entire record that allows a reasonable person to conclude consistency, NOT the usual standard of review which is whether the agency’s decision is supported by substantial evidence. GC §65589.5(f)(4).
- D. If an inconsistency determination is made or a project is not approved, the agency (not the applicant) bears the burden of showing the decision conforms to the Housing Accountability Act.

Five Hearing Rule

New section added (GC §65905.5.) limiting number of hearings to five.

- Only applies after project applications deemed complete under PSA.
- Hearing includes any public hearing, continuances of a hearing, workshop, or similar meeting, including any appeal, conducted by the city or county with respect to the project. Hearing DOES NOT include review of a legislative approval (general plan, specific plan, or zoning amendment).
- Does not limit hearings required by CEQA.

Timing for Decision on Project

A. CEQA Determination Made. If agency makes a CEQA determination, then must have a decision on the project under the PSA:

- Within 60 days from a determination that the project is exempt from CEQA. GC §65950(a)(5)
- Within 60 days for a determination on a CEQA exemption or mitigated negative declaration. GC §65950(a)(4)
- Within 180 days if environmental impact report is certified. 90 days for housing development project; 60 days for certain affordable housing projects. GC §65950(a)
- The above timelines can be extended once for 90 days if both the Agency and applicant agree. GC §65950(b)

B. CEQA Determination at a Time of Project Approval. There is NO timeline to obtain approval of application UNLESS a CEQA determination is made independent of, and in advance of, the project approvals.

Different Definitions for a Housing Development Project

- A. **Single family home is a “housing development project”** for purpose of Government Code sections 65905.5 (limiting the number of hearings allowed for any “housing development project”), 65940 (requiring that public agency provide list of information required for complete housing development project application), 65941.1 (preliminary application requirements), 65943 (Permit Streamlining Act provision requiring completeness determination within 30 days), 65950 (Permit Streamlining Act provision required decision within certain period from completion of CEQA review), and 66300 (prohibition on enforcing new subjective standards on housing projects).
- B. **Single-family home is NOT a “housing development project” under the HAA.** Only projects with two or more residences are “housing development projects” for purposes of the HAA (Government Code section 65589.5), which prohibits cities and counties from denying or making infeasible “housing development projects” that comply with objective development standards, unless specific findings are made.

Proposed Project

Applicant files an SB 330 preliminary application with the City of Wonder. The project requires a tentative map and design review. The General Plan designates the property as Residential Medium Density (25-35 units/acre) with a 35-foot height limit and is designated in the Housing Element as a Housing Inventory Site for 75 affordable lower income units. The site is zoned Agriculture (1 unit/acre) with a 30-foot height limit.

Proposed Project

The proposed project site is 3 acres and includes an old farm house of approximately 5,000 sq ft, an abandoned apple orchard and a 1,000 square foot barn. The property to the west includes a single-family subdivision of 50 homes, to the north is Tinker Blvd (4 lane road), to the east is a mixed-use project consisting of 2,000 square feet of neighborhood retail and 65 townhomes, and to the south is Miner Park (3-acre neighborhood park with playground, picnic area, and four pickle ball courts).

Proposed Project

The project proposes 125 units (40 single family units, 20 ADUs, and 65 condominium units). The condo units are proposed to be located on the eastern portion of the site in two separate buildings of 60 feet in height. The remaining 40 units will be a mix of one- and two-story homes, and 20 homes will include separate ADUs. The ADUs are proposed as affordable lower income units.

Proposed Project Issues

Does the project need a rezoning for density?

Relevant facts:

- General plan shows $25 - 35 \times 3 = 105$ units per acre;
- Housing element shows 75 lower income units;
- Site is zoned agriculture (1 unit/acre).
- Site is 3 acres.
- Proposes 125 units (65 condos, 40 single-family, 20 ADUs).

Proposed Project Issues

Does the project need a rezoning for height?

Relevant facts:

- General plan shows 35-foot height limit.
- Zoning has 30-foot height limit.
- Project proposes height of 60 feet.

Proposed Project Issues

Can the City deny the project because it doesn't have any lower income units?

Relevant facts:

- Housing element shows 75 lower income units.
- Project doesn't have any affordable units.

Proposed Project Issues

Could the City downzone the property? It was intending to downzone this site.

Relevant facts:

- A preliminary application was submitted.
- Housing Crisis Act doesn't allow downzoning unless another site is upzoned.

Proposed Project Issues

Could the City deny the project because it can't make tentative map or design review findings?

Relevant facts:

- See tentative map and design review findings.

Tentative Map Findings

When considering applications for a tentative map, the Planning Commission shall evaluate the impact of the proposed use on and its compatibility with surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location and make the following findings:

- A. The proposed use consistent with the policies of the General Plan and the general purpose and intent of the applicable district regulations;
- B. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts such as traffic, noise, odors, visual nuisances, or other similar adverse effects to adjacent development and neighborhoods. These improvements or modifications may include, but shall not be limited to, the placement or orientation of buildings and entryways, parking areas, buffer yards, and addition of landscaping, walls, or both, to mitigate such impacts;
- C. The proposed use will not generate pedestrian or vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- D. The proposed use incorporates roadway improvements, traffic control devices or mechanisms, or access restrictions to control traffic flow or divert traffic as needed to reduce or eliminate development impacts on surrounding neighborhood streets; and
- E. The proposed use incorporates features to minimize adverse effects, including visual impacts and noise, of the proposed special use on adjacent properties.

Design Review Findings

1. The purpose of this review of architectural style is to ensure that originality in site planning, architecture, landscaping and graphic design is encouraged, while inharmonious or monotonous design is avoided.
2. Demonstrate how the proposed project fits within and contributes to the immediately surrounding built context, the sustainability objectives for the buildings, and, if applicable, any approach to historic preservation.
3. Specimen trees in appropriate locations, such as along drainages and along the perimeter of the site may be used to fulfill landscaping or buffering requirements under the Design Review Ordinance.
4. Any existing vegetation or non-specimen trees that are in appropriate locations, in sufficient quantities, and of acceptable quality to be used to fulfill landscaping or screening requirements under the Wonder Zoning Ordinance, shall be preserved to the maximum extent practicable.

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