RYAN J. PATTERSON (SBN 277971)
SARAH M. K. HOFFMAN (SBN 308568)
ZACKS, FREEDMAN & PATTERSON, PC
235 Montgomery Street, Suite 400
San Francisco, CA 9 410 4
Tel: (415) 956-8100
Fax: (415) 288-9755
Email: ryan@zfplaw.com

Attorneys for Petitioner
Yes In My Back Yard, a California Nonprofit Corporation

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA – UNLIMITED JURISDICTION

YES IN MY BACK YARD, a California Nonprofit Corporation Petitioner, vs. CITY OF SIMI VALLEY, SIMI VALLEY PLANNING COMMISSION, and SIMI VALLEY CITY COUNCIL, Respondents, JM SQUARED DEVELOPMENT, LLC, a California Limited Liability Company, Real Party in Interest.	CASE NO.: 56-00539590-CU-WM-VTA REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PETITIONER YES IN MY BACK YARD'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEMURRER (CCP § 1094.5; Govt. Code § 65589.5) Dept: 40 Judge: Hon. Mark S. Burrell Hearing Date: August 10, 2020 Time: 8:30 am Petition Filed: January 31, 2020

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 9 410 4

Exhibit J: United States Census Bureau's definition of "Housing Unit (Construction)." This exhibit is subject to judicial notice under Evidence Code §§ 452(b), (h).

Exhibit K: United States Census Bureau's Definition of "Housing Unit." This exhibit is subject to judicial notice under Evidence Code § 452(b), (h).

Exhibit L: California Senate Bill No. 167 of 2017 (Amending Government Code §65589.5 effective January 1, 2018). This exhibit is subject to judicial notice under Evidence Code § 451(a) and 452(b), (c), (g), and (h).

Exhibit M: Assembly Bill No. 258 4 of 2016 (Amending Government Code §65589.5 effective January 1, 2017.) This exhibit is subject to judicial notice under Evidence Code § 451(a) and 452(b), (c), (g), and (h).

Exhibit N: Excerpts from architectural plans for Real Party JM Squared Development, LLC's project. This exhibit is subject to judicial notice under Evidence Code §§ 452(d), (h).

Date: July 28, 2020

ZACKS, FREEDMAN & PATTERSON, PC

By: Sarah M. K. Hoffman
Attorneys for Petitioner YIMBY

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 9 410 4

DECLARATION OF SARAH M. K. HOFFMAN

I, Sarah M. K. Hoffman, Esq., declare that:

1. I am an attorney licensed to practice law in the State of California and an associate with Zacks, Freedman & Patterson PC, counsel of record for Petitioner Yes In My Back Yard. The facts set forth herein are within my personal knowledge and if called as a witness I could and would competently testify to them.

2. Attached hereto **Exhibit A** is a true and correct copy of an excerpt from the Department of Environmental Services Planning Commission Staff Report for Case No. CUP-S-812. This document is included within the administrative record for this case prepared by counsel for the City of Simi Valley ("Respondent") (the "AR") and bears the AR number of AR913-1110.

3. Attached hereto as **Exhibit B** is a true and correct copy of an excerpt from the Simi Valley Planning Commission's September 4, 2019 Meeting Transcript. The complete document is included in the AR for this case and bears the AR number of AR1390-1409.

4. Attached hereto as **Exhibit C** is a true and correct copy of a May 29, 2019 Letter from City Deeming Real Party's Project Application Complete. This document was filed by Real Party in its Request for Judicial Notice in support of its Motion for Judgment on the Pleadings.

5. Attached hereto as **Exhibit D** is a true and correct copy of excerpts from Simi Valley General Plan Housing Element as enacted by Resolution No. 2014-07. The complete exhibit is accessible online at the following webpage maintained by the City: https://www.simivalley.org/home/showdocument?id=8390

6. Attached hereto as **Exhibit E** is a true and correct copy of a letter from Petitioner to Simi Valley City Council, as found in the November 4, 2019 Simi Valley City Council Meeting Agenda. This document is included in the AR for this case and bears the AR number of 1172-1173.

7. Attached hereto as **Exhibit F** is a true and correct copy of the November 4, 2019 Simi Valley City Council Meeting Agenda Item No. 4B, Department of Environmental Services Memorandum Regarding CUP-S-812. This document is included in the AR for this case and bears the AR number of 1184-1192.

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 94104

8. Attached hereto as **Exhibit G** is a true and correct copy of the City of Simi Valley draft Denial Resolution No. 2019- 46.This document is included within the AR and bears the AR number of AR1222-1224.

9. Attached hereto as **Exhibit H** is a true and correct copy of excerpts from Simi Valley Municipal Code §9-80.020. This exhibit is accessible online at the following webpage maintained by the City: https://library.municode.com/ca/simi_valley/codes/code_of_ordinances.

10. Attached hereto as **Exhibit** is a true and correct copy of excerpts from Simi Valley Municipal Code §9-2 4.030. This exhibit is accessible online at the following webpage maintained by the City: https://library.municode.com/ca/simi_valley/codes/code_of_ordinances.

11. Attached hereto as **Exhibit J** is a true and correct copy of the United States Census Bureau's New Residential Construction Definitions of "Housing Unit (Construction)". This exhibit is available online at the following webpage maintained by the U.S. Census Bureau: https://www.census.gov/housing/hvs/definitions.pdf

12. Attached hereto as **Exhibit L** is a true and correct copy of California Senate Bill No. 167 of 2017 (Amending Government Code §65589.5 effective January 1, 2018). This exhibit is accessible online at the following webpage maintained by the California Legislature: https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB167

13. Attached hereto as **Exhibit M** is a true and correct copy of Assembly Bill No. 2584 of 2016 (Amending Government Code §65589.5 effective January 1, 2017) . This exhibit is accessible online at the following webpage maintained by the California Legislature: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2584

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235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 9 410 4

14. Attached hereto as **Exhibit N** is a true and correct copy of excerpts from architectural plans for Real Party JM Squared Development, LLC's project. The complete document is included in the AR for this case and bears the AR number of AR0844-0849.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed this 28th day of July, 2020 at San Francisco, California.

By: Sarah M. K. Hoffman

ZACKS, FREEDMAN & PATTERSON, PC
235 MONTGOMERY STREET, SUITE 400
SAN FRANCISCO, CALIFORNIA 9 410 4

EXHIBIT A

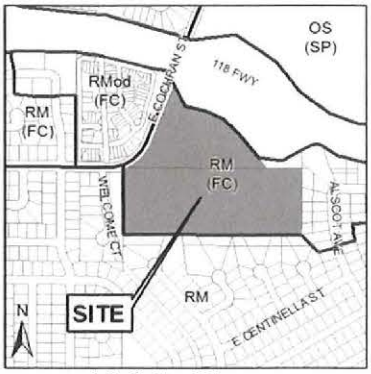
AGENDA ITEM NO.
11.A.1

CITY OF SIMI VALLEY

DEPARTMENT OF ENVIRONMENTAL SERVICES
PLANNING COMMISSION STAFF REPORT

CASE NO.: CUP-S-812 **HEARING DATE:** September 4, 2019

STAFF CONTACT:	Donna Rosser (805) 583-6872
REQUEST:	Approval of a Conditional Use Permit to construct and operate a residential care facility with 68 assisted living units and 40 memory care units
RECOMMENDATION:	Approve CUP-S-812 with recommended conditions
APPLICANT:	JM Squared Development, LLC c/o Lauterbach and Associates, Architects, Inc. 300 Montgomery Avenue Oxnard, CA 93039 Attn: Mark Pettit (805) 218-1128
GENERAL PLAN / ZONING:	Residential Medium Density/Residential Medium Density District, Freeway Combining Overlay [RM (FC)]
LOCATION:	On Cochran Street, 150 feet east of Welcome Court



Vicinity Map



Aerial Map

PROJECT DESCRIPTION

The applicant, JM Squared Development, LLC, proposes to construct a two-story, residential care facility with 68 assisted living and 40 memory care units, known as Melrose West Senior Living Community. The proposed building is located at the base of the hill on an approximately 1.6-acre portion of a 19.2-acre lot. The other approximately 17.6-acres will remain undeveloped. No construction will take place on the hill or the existing dirt road going up the hill.



Project Rendering

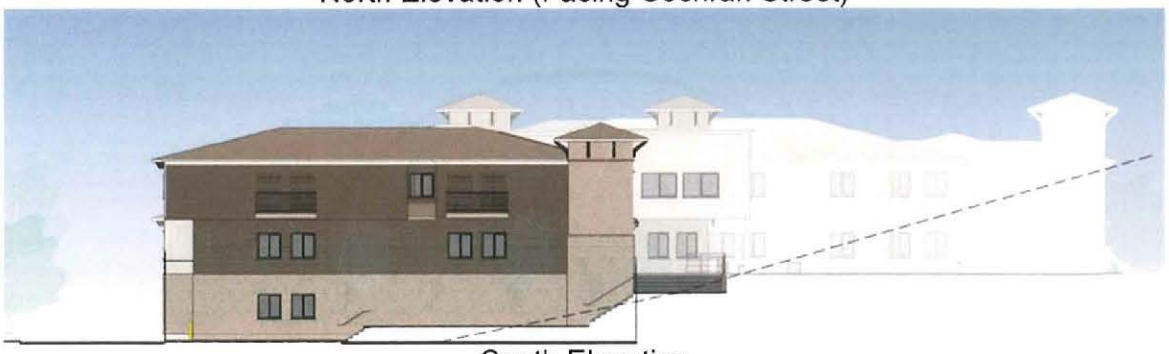
The project is located on the Valley floor and is not subject to the Hillside Performance Standards. The building is two-stories with basement parking below the building based on the Building Code definition of a basement that states: "The upper floor level will be classified as the first story above grade plane if: the floor level is not more than 12 feet above grade at any point and is not more than six feet above the grade plane." The proposed basement parking below the building is designed to limit the amount of surface parking noise on-site. At the base of the slope, retaining walls guard against any dirt and/or small cobblestones that may erode down the hill. The fire department is requiring a sidewalk on the east side of the building (near the hillside) for rescue purposes to make easy access to the second floor, and a fire access driveway along the west side of the building to protect all sides of the building. The 15-foot sidewalk on the east side will allow room for the creation of an outdoor patio area for the residents.

Sidewalks and street trees will be installed along the east side of Cochran Street from the project site up to the 118 freeway bridge. The project requires 54 parking spaces and the applicant is proposing 12 parking spaces at grade level and 42 basement spaces (54 total parking spaces). The existing oak tree (not shown in above picture so you can see the building) will be preserved in-place in the landscape planter.

The proposed two-story building massing is visually reduced by creating segments, using stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco. The applicant has proposed colors to blend in with the existing hillside.



North Elevation (Facing Cochran Street)



South Elevation



West Elevation



East Elevation (Facing the hillside)

The residential care facility will provide the following:

Basement

- 42 parking spaces
- Loading area
- 2 elevators and 2 stairways
- 2 utility storage rooms
- Kitchen
- Laundry
- Staff restroom
- Staff lounge

First Floor

- 12 parking spaces
- 49 assisted living units
- Lobby with a reception and concierge desk

- Dining room separated from the lobby by a small glass wall
- Club room/bar lounge area
- Hair salon
- Gym/exercise room
- Lounges, conference room, and three outdoor courtyards for the assisted living residents

Second Floor

- All of the 40 memory care units are located on the second floor
- Separate dining room
- Warming kitchen
- Three lounge areas
- An additional separate lounge area is provided for 19 assisted living units

In terms of traffic, the City Traffic Engineer has reviewed the Traffic Study prepared by Associated Transportation Engineers, dated January 31, 2019, and determined that the Level of Service (LOS) for intersection at Yosemite Avenue and Cochran Street will be maintained at a "LOS A" level with or without the project. The project would generate 335 average daily trips with 24 a.m. and 34 p.m. peak hour trips. The residential care facility would contribute to the future improvements by payment of traffic mitigation fees to offset its cumulative traffic impacts.

In May 2000, the previous owners of the property applied for a Preliminary Review to subdivide the 19.2-acre parcel to allow for four single-family residential lots. The applicant did not go forward with the proposal due to project concerns, and lack of public support. The property owner eventually sold the undeveloped parcel.

NEIGHBORHOOD COUNCIL

Executive Board of Neighborhood Council #4 heard the project on August 20, 2019 and recommended denial by a vote of 8.2.0. The audience vote was 42.0.0. A summary of NC #4 meeting is attached as Attachment A.

ANALYSIS

The project is located in Residential Medium (RM) zoning district that requires approval of a Conditional Use Permit for residential care uses. To approve the proposed project, it must be found that the Conditional Use Permit (CUP-S-812) is consistent with the findings pursuant to Simi Valley Municipal Code (SVMC) Section 9-52.070.G, as follows:

1. The proposed use is consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan and any applicable specific plan, in that the site's General Plan Land Use designation is Residential Medium density. The purpose of the Residential Medium density Land Use designation is to encourage a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor.

The Conditional Use Permit is consistent with the following General Plan policies:

a. General Plan Land Use Policy LU-4.8 states: "Design buildings to be architecturally integrated into the terrain and blend with the natural environment;"

b. General Plan Land Use Policy LU-5.4 states: "Buffer different land uses within a neighborhood from one another by walls, fences, and landscaped greenbelts;" and

c. General Plan Housing Policy HE-4.3 states: "Encourage the construction of specialized housing for senior citizens in the community, including planned senior communities." The proposed project is designed as a two-story building for senior citizens using earth tone colors to blend in with the existing neighborhood and hillside. A block wall, six-foot wide landscaped planter and a 24-foot wide fire access road provides a buffer to the nearest neighbor's property line. Therefore, project consistency is being met.

The following table shows the existing General Plan Land Use designations, zoning designations, and current use of the project site and surrounding properties:

Table 1

	GENERAL PLAN	ZONING	LAND USE
Subject Site:	Residential Medium Density	Residential Medium Density District, Freeway Combining Overlay [RM (FC)]	Undeveloped vacant lot
North:	Residential Moderate Density	Residential Moderate Density District, Freeway Combing Overlay [RMOD (FC)]	Townhomes
South:	Residential Medium Density	Residential Medium Density District	Single-family residences
East:	Residential Medium Density	Residential Medium Density District	Single-family residences
West:	Residential Medium Density	Residential Medium Density District	Single-family residences

2. The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Development

Code. The proposed project is zoned Residential Medium Density District, Freeway Combining Overlay [RM (FC)]. The RM zoning district is intended to provide for a suburban single-family residential environment with a range of parcel sizes and some clustering of parcels. The FC overlay district is intended to regulate residential development along the freeway corridor in an effort to minimize the number of people impacted by the negative elements of the freeway. The FC overlay zone is established in recognition of the fact that residential development near the Simi Valley Freeway requires special consideration in construction and design. These special standards are meant to provide acoustic and visual protection for residents of dwellings to be constructed within the freeway impacted area as well as enhance the appearance of the freeway corridor through the City. The project compiles with the applicable Development Code standards as shown in Table 2:

Table 2

	REQUIRED	PROPOSED
Setbacks (SVMC §9-24.050 Table 2-3):	Front: Min. 20 Feet Side: Min. 10 Feet Rear: Min. 20 Feet	Front: Over 90 Feet Side: 30 Feet Rear: 22 Feet 6 Inches
Building Height (SVMC §9-44.105.C):	2 Stories, not to exceed 30 Feet	2 Stories, 30 Feet maximum with roof structure exceptions to provide for stairwell
Parking (SVMC §9-34	54 parking spaces (0.5 spaces per bed)	54 parking spaces
Utility Equipment Screening (SVMC §9-30.070)	All aboveground utility equipment must be screened from public view	All aboveground utility equipment must be screened from public view

A tree report was prepared by LA Johnny, dated October 13, 2018 (Exhibit 4). The site currently contains seven on-site trees and nine off-site trees. Five on-site trees are protected by ordinance by virtue of their size and two trees (Allepo Pine and Valley Oak) are proposed to be removed. The replacement value of these trees are $7,800.00. The other mature trees will be protected by require fencing and root pruning prior to commencing construction. Therefore, project consistency is being met.

3. The project is consistent with the City-adopted design guidelines, in that staff evaluated the project for conformance with the Citywide Design Guidelines (CDG) as follows:

   a. Citywide Design Guideline Chapter 2.D.2.a (page 2-16) states: "It is desirable to make new development look "established" as quickly as possible. Planting new trees that are older and better developed is viewed as superior to planting small underdeveloped saplings." The applicant proposes using 36-inch box and 48-inch box trees (four to nine-feet tall). The Conceptual Landscape Plan shows multi- and single-trunk Valley

Oaks, Coast Live Oaks, California Sycamore, Arbutus "Marina", Western Redbud, and Toyon trees, to help to provide a more established look in three to four years;

b. Citywide Design Guideline Chapter 2.E.1 (page 2-25) states: "The designed elements that establish high quality architectural style and materials that contribute to good quality architecture include: simple, multi-planed pitched roofs; open rafters/tails with large overhangs; the appearance of "thick" walls; courtyards; building masses with the incorporation of one and two story architecture; stucco, smooth, sand or light lace finish; wood, as an exposed structural material; concrete roof tiles; and brick, as an accent material." The proposed building incorporates all of the above architectural qualities and adds tower elements for both function (conceal stairways) and design; and

c. Citywide Design Guideline Chapter 2.E.2.a (page 2-26) states: "Color is intended to act as a primary theme conveying element. In general, earth tone wall colors should be predominate including off-white, cream, or light pastels while avoiding the strong pink and salmon hues." The applicant proposes earth tone colors consisting of light tan, off-white, and dark-brown to blend in with the existing hillside landscape. Therefore, the project is consistent with the City Design Guidelines.

4. The design, location, operating characteristics, and size of the proposed use is compatible with the existing and future land uses in the vicinity, in terms of aesthetics, character, scale, and view protection. The proposed Residential Care Facility's Cochran Street frontage will provide a four-foot wide sidewalk along with 36" and 48" box oak trees every 40 feet from the driveway entrance to the 118 Freeway to provide shade to along the new sidewalk. The proposed building is setback over 90 feet from Cochran Street, with two-story architecture similar to the townhomes across the street from the project. The building contains a concrete tile roof, neutral color stucco, and stone veneer similar to the house designs in the immediate area to provide compatible aesthetics and character with this residential area. The building scale is softened by having a one-story portion of the building, additional building setbacks, being set closest to the hillside to lower the building visibility and wood-siding.

   View protection is not applicable since the project is being built on the valley floor (refer to General Plan Policies NR-3.3 and NR-3.5), and the Development Code does not protect views from individual valley floor lots. Thus, the proposed facility's design, location, operating characteristics, and size of the proposed use is compatible with the existing and future land uses in the vicinity, in terms of aesthetics, character, scale, and view protection.

5. That the proper standards and conditions have been imposed, which protect the public health, safety, and welfare, in that the City Traffic Engineer has determined that the site has adequate access subject to Conditions of Approval B-14 through *B-17 and that the nearest signalized intersections which are currently operating at LOS A during the morning and evening peak hours will continue to operate at LOS A at General Plan build-out with the project. In addition, the construction of

the proposed Residential Care Facility is required to meet all standards of the California Building Code and will meet City standards for sanitation (Conditions B-18 through B-22). The proposed project is being conditioned to prepare a Storm Water Pollution Prevention Plan (SWPPP) and incorporate permanent Storm Water quality treatment devices into the site improvements to comply with State Water Resources Control Board requirements (Condition B-13). In addition, the Applicant must construct water facilities to comply with the Rules and Regulations of Ventura County Waterworks District No. 8 to ensure the public health and safety (Condition B-23). The Applicant is required to provide a photometric plan to comply with minimum illumination standards for the public parking areas per SVMC Section 9-30.040 to ensure minimum illumination standards at nighttime are met, and that the illumination does not spill onto adjacent properties or create glare (Condition A-13). The Noise Study prepared for the project did not show noise impacts on adjacent properties as reflected in the Mitigated Negative Declaration. Therefore, public health, safety and welfare have been met.

ENVIRONMENTAL REVIEW AND CEQA REQUIREMENTS

An Initial Study was prepared for the project in accordance with Section 15063 of the State California Environmental Quality Act (CEQA) Guidelines. Based on the conclusions in the Initial Study, it was determined that the project could have significant effects on cultural resources. Refer to Initial Study/Mitigated Negative Declaration (Exhibit 5). The applicant has incorporated the following mitigation measures that would reduce the potentially significant environmental impacts to an insignificant level:

M.M.1 During initial ground disturbance for the project, a qualified archeologist, defined as an archaeologist who meets the Secretary of the Interior's Professional Qualification Standards for archaeology (NPS 1983; hereafter qualified archaeologist), should monitor construction activities within the project site. If, during initial ground disturbance, the monitor determines that the construction activities have little or no potential to impact cultural resources, the qualified archaeologist may recommend that monitoring be reduced or eliminated. If cultural resources are identified during initial monitoring, work in the immediate vicinity should halt until the resource has been evaluated for significance. Should the resource be determined a historical resource under CEQA, additional studies, inducing data recovery efforts may be needed to reduce project impacts. Should the resource(s) prove to be Native American in origin, consultation with local tribes and the City of Simi Valley, acting as lead agency, may be necessary to mitigate any significant impacts.

M.M.2 If cultural resources are encountered during project development, work in the immediate area must halt and a qualified archaeologist must be contacted immediately to evaluate the find. If the discovery proves to be significant under CEQA, additional work such as data recovery excavation and Native American consultation may be warranted to mitigate any significant impacts.

M.M.3 If human remains or funerary objects are encountered during Project grading activities, work in the immediate vicinity (within a 100-foot buffer of the find) must cease and the County Coroner must be contacted immediately regarding the human remains. California Health and Safety Code Section 7050.5 states that no further disturbance must occur until the County Coroner has made the necessary

findings as to origin. Further, pursuant to California Public Resources Code Section 5097.98(b) remains must be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the County Coroner determines the remains to be Native American, the Native American Heritage Commission as well as a representative from the Fernandeño Tataviam Band of Mission Indians must be contacted within 24 hours of the find. The NAHC must then immediately identify the "most likely descendants (MLD)" for purposes of receiving notification of discovery. The MLD(s) must then make recommendations within 48 hours and engage in consultation concerning the treatment of the remains as provided in Public Resources Code Section 5097.98.

M.M.4 In the event an unanticipated fossil discovery is made during the course of project construction, then, in accordance with the Society of Vertebrate Paleontology (SVP) (2010) guidelines, it is the responsibility of any worker who observes fossils within the project area to stop work in the immediate vicinity of the find and notify a qualified professional paleontologist who must be retained to evaluate the discovery, determine its significance and if additional mitigation or treatment is warranted. Work in the area of the discovery will resume once the find is properly documented and authorization is given to resume construction work. Any significant paleontological resources will be prepared, identified, analyzed, and permanently curated in an approved regional museum repository.

M.M.5 The Applicant must enter into a cultural resource agreement with the Fernandeño Tataviam Band of Mission Indians (FTBMI) for the protection of cultural resources, in which the FTBMI must be identified to provide Tribal Cultural Resource Monitoring and consult on the treatment and disposition of inadvertently discovered Tribal Cultural Resources.

M.M.6 The Project Applicant must retain a Tribal Cultural Resource monitor procured by the Fernandeño Tataviam Band of Mission Indians to observe all ground disturbing activities until work reaches five feet below the surface of native soil, unless there is evidence to suggest cultural resources extend below the specified depth.

- One monitor will be required on site for all ground disturbing activities within the Project site.
- The Tribal monitor will have the authority to request ground disturbing activities cease within the area of discovery (within a 60-foot buffer of the find) to assess and document potential finds in real time.
- The Tribal Cultural Resource monitor must photo-document ground disturbing activities and maintain a daily monitoring log that contains descriptions of the daily construction activities and documentation of Tribal Cultural Resources identified. The monitoring log and photo documentation, accompanied by a photo key, must be submitted to the applicant upon completion of the aforementioned ground disturbing activities.

EXHIBIT B

CERTIFIED TRANSCRIPT

Simi Valley Planning Commission Meeting

Cochran Street

September 4, 2019

CERTIFIED TRANSCRIPT

Simi Valley Planning Commission Meeting

Cochran Street

September 4, 2019

proposed a one-story element, located right here, which is adjacent to the closest one-story residence. The building meets the required 30-foot height limitations with allowed height exceptions of the towers, within, which provides the required elevators and stairwells.

The applicant is only requesting a conditional use permit and here are the required findings. The complete details of the findings are located in the staff report. The project is an allowed use in the residential medium density zoning district with a conditional use permit, and meets all required development standards, including setbacks, building height, parking and utility equipment screening requirements.

The project is also consistent with the general plan, goals, policies and objectives, since it is a residential use in a residential zoning district. The project incorporates landscaping, architectural style, and color that ensure consistency with the city-wide design guidelines, in terms of aesthetics, scale and view protection. The project is compatible with the surrounding neighborhood, and the project has been conditioned to make sure that the public

safety, health and general welfare have been taken care of by the building, public works, Ventura County fire and other agencies, along with 94 conditions of approval added to the staff report. Therefore, it is staff's opinion the findings have been met. Staff recommends approval of the conditional use permit, CUP-S-812, and staff and the applicant are available for questions.

COMMISSIONER TIM HODGE: By the way, we're checking on the air conditioning. I apologize for the, the comfort of the room. Okay. Amy body have questions of staff at this point?

COMMISSIONER KEN RICE: Yes.

COMMISSIONER TIM HODGE: Commissioner, go right ahead.

COMMISSIONER KEN RICE: Those 94 -- 94 conditions, you say?

SENIOR PLANNER DONNA ROSER: Correct.

COMMISSIONER KEN RICE: Does that include condition A-15, the one that was just presented?

SENIOR PLANNER DONNA ROSER: That would make it 95.

Mark Pettit and I'm with Lauterbach & Associates Architects. And tonight, we're here to present our project, which we have been working on with staff for about three years. We have our development team here tonight. We have civil engineer, traffic engineer, the proposed property manager, and of course the owners of the property.

So, during this process, as was mentioned, we had quite a few units. We significantly reduced the units. We've removed all the independent living units that were up on the hill. And that also reduced our parking requirements and our traffic impacts.

And as you may be aware, with memory care and assisted living, the number of cars that the residents have are very, very, very minimal. We meet all the parking requirements, height requirements. There were some concerns early on about the dirt and the earth removal. We've modified our plan substantially. So, all of the dirt stays on sight. In other words, it balances. Our building is two stories. And from Cochran, it's similar to the condos that are across the street. As was mentioned, we have a

COMMISSIONER KEN RICE: Okay, 95 conditions. Okay. Before the applicant gets up here, is the city worried at all about the sewer capacity?

SENIOR PLANNER DONNA ROSER: No. They have done a sewer study. And there's no concerns.

COMMISSIONER KEN RICE: Okay. And obviously, the fire department had no concerns 'cause of the, the road down the side and all that.

SENIOR PLANNER DONNA ROSER: Correct.

COMMISSIONER KEN RICE: And then, okay. That's the only questions I have.

COMMISSIONER TIM HODGE: Any other questions of staff? Okay. We'll open the public hearing. And the applicant will get the opportunity to go first. We have, we have a Tim Geraldton and Mark Pettit. So, whoever would like to present. Mr. Pettit, can you do what you need to do in ten minutes?

MARK PETTIT: I'll do my best.

COMMISSIONER TIM HODGE: Very good. Thank you. Ten minutes please.

MARK PETTIT: Good evening. My name is

So, if you do the math, 19.2 acres times a maximum of 5 units is, yeah, five units per acre, provides a maximum overall density if this project was built in total, at the maximum density of 96 units. Why are we allowing 108?

SENIOR PLANNER DONNA ROSER: Because it's not being built as a single-family home. It's being built as a assisted living.

COMMISSIONER TIM HODGE: So, if they wanted to put even more units on there, so long as they met the height requirement, met the setback requirements, there was no parking problems and it was determined that the traffic issues weren't of particular concern, the level of service was adequate, lines of sight were adequate, then they could put, apply to build more here, correct?

SENIOR PLANNER DONNA ROSER: They could put more.

COMMISSIONER TIM HODGE: Okay.

SENIOR PLANNER DONNA ROSER: But they're, this is all they're proposing. They originally had 130 units. They had 20 bungalows up on the hill. But they removed those from the project because they didn't want to impact the

hill. And that way they kind of lowered it. And then it went down to 110. They did a redesign because of the requirement from the fire department to have the 15-foot sidewalk on the east side of the building for access to the second floor. So, that took away the two additional units. So, now we're at 108.

COMMISSIONER TIM HODGE: Taking a look at one of the design, the elevation examples that we were provided, and specifically looking at the west elevation --

SENIOR PLANNER DONNA ROSER: Uh huh.

COMMISSIONER TIM HODGE: Now I believe that this, on the west elevation, which is the project of the project that meets the gentleman that lives right next door --

SENIOR PLANNER DONNA ROSER: Correct. It faces welcome court.

COMMISSIONER TIM HODGE: It appears form this design, and I believe from looking overhead, that there is some articulation that may not -- I'm just going to have to show you. There's some articulation at this point here. Correct?

SENIOR PLANNER DONNA ROSER: Right

this project is not consistent with the purpose or the intent of the general plan. This site -- if I could ask that you please hold the applause until the end, or if at all. This site would be much better suited for single family detached housing. I believe that this is not the intent of residential medium in this specific area of the city.

And I specifically disagree with the findings in section one. In addition, I disagree with the findings in section four, where the location and the proposed use -- sorry -- the location of the proposed use is not compatible with the existing and future land uses in the vicinity, in terms of character and scale. I have driven by this parcel numerous times. I did struggle with this project. Because we do need this for our seniors.

However, there is already traffic on Cochran. And while we can't address the speeding issue on Cochran -- and I do encourage you to talk to the police department for increased enforcement. Cochran is only a two-lane road, and this does add a significant amount of traffic. And finally, I do have affordability

EXHIBIT C

CITY OF SIMI VALLEY

Home of The Ronald Reagan Presidential Library

May 29, 2019

Sent via mail and email

Lauterbach and Associates, Architects, Inc.
Attn: Mark Pettit
300 Montgomery Avenue
Oxnard, CA 93039

SUBJECT: COMPLETENESS OF APPLICATION FOR CONDITIONAL USE PERMIT CUP-S-812, A REQUEST TO CONSTRUCT AND OPERATE A SENIOR ASSISTED LIVING FACILITY WITH MEMORY CARE LOCATED ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT (APNS: 650-0-260-030; 650-0-280-025)

Dear Mr. Pettit:

The materials necessary to schedule your project for public hearing were received on May 22, 2019 and determined to be satisfactory on May 28, 2019. Your project is now deemed complete and is scheduled for a public hearing before the Planning Commission on September 4, 2019. This hearing will be held at 6:30 p.m. in the City Council Chamber located at 2929 Tapo Canyon Road, Simi Valley. Preparation of the hearing staff report, conditions of approval and the environmental document for your project is underway. Copies of these documents will be sent to you before the public hearing.

Now is the appropriate time for you to schedule your project for presentation at a meeting of Neighborhood Council No. 4. Although not mandatory, the City expects that projects will be reviewed by the Neighborhood Council to provide community participation in the planning process. It is strongly recommended that you contact the Neighborhood Council Coordinator, at (805) 583-6756, by June 7, 2019, to be included in the next available Neighborhood Council No. 4 meeting. I will prepare the required Neighborhood Council Development Project Overview for the Neighborhood Council Coordinator, who will distribute it to the members of the Neighborhood Council. I will also send a copy of the overview to you when it is completed. Please contact me immediately if you do not intend to participate in the Neighborhood Council process.

You can now order the public notice sign for your project. I have enclosed a handout which specifies the size and information requirements of the sign. It is requested that you post the sign on the site no later than 3:00 p.m., on Wednesday, August 21, 2019, in order for staff to verify that the sign has been installed and meets the code requirements, and to allow time for corrections to be made if necessary. The sign is required to be correctly posted on site no later than 12:00 p.m., on Friday, August 23, 2019, to comply with SVMC Section 9-74.

Your project will be processed with a CEQA Negative Declaration. Please contact Monica Dionne at (805) 583-6342, or via email at mdionne@simivallery.org if you need more information about the CEQA document. A copy of the Negative Declaration will be sent to you when it is released for public review. For this project, the environmental posting fee of $50.00 and the California Department of Fish and Wildlife review fee of $2,354.75 will be needed to complete the processing of your project approval. State law requires that a project approval is suspended until the Fish and Wildlife review fee is paid. Please deliver a check for $2,404.75, made payable to the "Ventura County Clerk," to me by September 4, 2019 to ensure the timely processing of your project approval. If you anticipate that your project will have no effect on fish and wildlife, please visit the regional Department of Fish and Wildlife website: https://www.wildlife.ca.gov/Regions/5/NED to request a No Effect Determination (NED). If you submit the NED issued by the Department of Fish and Wildlife to the City, you will not need to pay the Fish and Wildlife review fee.

If you have any questions about this letter, or other aspects of the planning process for your application, please contact me at (805) 583-6872, or via email at drosser@simivalley.org. If you have any concerns regarding the management of your project, please contact Stratis Perros, Deputy Environmental Services Director/City Planner, at (805) 583-6307 or Linda Swan, Deputy City Manager, at (805) 583-6853.

Sincerely,

Donna Rosser

Donna Rosser, Senior Planner
Department of Environmental Services

Enclosure: Guidelines for Project Site Sign Posting

cc: Deputy Environmental Services Director/City Planner
Deputy City Manager, L. Swan
Neighborhood Council Coordinator
DAC Members
Recording Secretary
JM Squared Development, LLC, John Metoyer, 18960 Keswick Street, Reseda, CA 91335

City of Simi Valley Guidelines for PROJECT SITE SIGN POSTING

Note: For assistance with this item, please call (805) 583-6769 or your Case Planner.

Specifications for the project site sign include:

Size – 4 ft. x 8 ft. (32 square feet of sign area).

Height – A maximum of 8 feet.

Location – Not less than 5 feet inside the property line in residential zones, and not less than 1 foot inside the property line in commercial and industrial areas. In all instances, the sign shall be located in areas that are most visible to the public.

Restrictions – The sign shall:

- Not be illuminated;
- Be limited to only one sign per street frontage of the property; and
- Be legible black lettering on white background.

Deadline – Signs must be correctly posted by 12:00 noon, 12 days prior to the public hearing. City planning staff must verify correct posting prior to deadline.

Information – Each sign shall include only the following factual information:

- Appropriate heading (Example: NOTICE OF PUBLIC HEARING ON PROPOSED DEVELOPMENT);
- Appropriate content as to type of project, number of units, etc. (Example: PROPOSED ON THIS SITE: 62 TOWNHOUSES. Do not use descriptive words such as "luxurious" or "elegant," etc.);
- Adequate space to note public hearing date, time, and location. This information must be inserted when the date for the public hearing has been set. If the meeting date has not yet been set, insert "To Be Announced;" and
- Adequate space to provide developer and City Hall phone numbers.

Removal – The signs shall be removed within 15 days of the expiration of the appeal period.

Sample Sign –



NOTE: If more than one applicant or more than one legal lot is involved in the project, the sign should provide information for the total development proposed. (Example: 100 townhomes on Lot #1, Applicant "A", and 100 townhomes on Lot #2, Applicant "B," the sign should read: "total project to consist of 200 townhomes.")

RJN0051

EXHIBIT D

CHAPTER 4 Housing

Persons with Special Housing Needs

Certain segments of the population may have more difficulty in finding decent, affordable housing due to their special needs. Special circumstances may be related to one's employment and income, family characteristics, disability and household characteristics, among other factors. Consequently, certain residents in Simi Valley may experience higher incidences of housing cost burden, overcrowding or other housing problems.

"Special needs" groups in Simi Valley include the following: senior households, persons with disabilities, large households, single-parents households, persons living in poverty, the homeless, farmworkers, and students (Table H-12). This section provides a detailed discussion of the housing needs facing each particular group as well as programs and services available to address their housing needs. Table H-17 identifies service providers for special needs populations in Ventura County.

Table H-12 Special Needs Groups in Simi Valley

Special Needs Group	# of Persons or Households	# of Owners	# of Renters	% of Total Households or Persons
Households w/ Members Age 65+	9,739	N/A	N/A	23.6%
Senior Headed Households	7,973	6,169 (77%)	1,804 (23%)	19.3%
Senior Living Alone	3,013	1,762 (59%)	1,251 (42%)	7.3%
Persons with Disabilities**	11,021	N/A	N/A	8.9%
Large Households	6.279	4,639 (74%)	1,640 (26%)	15.2%
Single-Parent Households	8,889	N/A	N/A	21.6%
Female Headed Households w/Children	2,158	N/A	N/A	5.2%
Residents Living Below Poverty*	7,588	N/A	N/A	6.8%
Homeless***	284	N/A	N/A	0.3%
Farmworkers (persons)*	431	N/A	N/A	0.4%
Students (College/Graduate)	9,210	N/A	N/A	8.3%

SOURCE: 2000 and 2010 Census, 2007-2011 and 2009-2011 ACS, and County of Ventura 2012 Homeless Count.
Notes:2010 Census data does not provide information on these groups; 2000 Census data is used.
*=2010 Census data not available. Estimate is from the 2007-2011 ACS.
**=2010 Census data not available. Estimate is from the 2009-2011 ACS.
***=2010 Census data not available. Estimate is from County of Ventura 2012 Homeless Count.
N/A = Data not available.

SENIOR HOUSEHOLDS

Many senior households have special housing needs due to their limited and/or fixed incomes, health care costs, and disabilities. Simi Valley's senior population increased 55 percent between 2000 and 2010 (and 150 percent between 1990 and 2010) (Table H-2). Approximately 19 percent of the City's households were also headed by a senior in 2010 (Table H-12). According to CHAS data (Table H-30), 32 percent of senior owners and 43 percent of senior renters were overpaying for housing. Housing cost burden is especially prevalent among the City's extremely low-income and very low-income senior households.

- Project designs that minimize safety and maintenance problems; and
- Provision of amenities such as recreational facilities or enriched landscaping.

HE-3.4 **Inclusive Affordable Housing.** Continue to review the design of all housing developments to ensure that units designed to be affordable complement the character of the surrounding neighborhood and do not separate lower-income families from the community. The City may allow unit clustering for purposes of facilitating the development of affordable ownership units and senior housing.

HE-3.5 **Incentives for Special Needs Affordable Housing.** Provide incentives to developers of affordable housing to construct affordable housing for groups with special needs in relationship to the amount of affordable units provided whenever possible.

HE-3.6 **Flexibility in Housing Design.** Continue to utilize the planned or cluster development permit process to provide for flexibility in housing design.

HE-3.7 **Quality Affordable Housing.** To the extent feasible, require affordable units to be provided in the same quality and design as other units in the development and to be evenly distributed throughout the development.

GOAL HE-4

Special Needs Groups. Programs to meet the special needs of target groups are available.

Policies

HE-4.1 **Equitable Special Needs Housing.** Work to provide housing for special household groups in an equitable and balanced manner including the provision of Universal Design improvements in new construction and in rehabilitation projects where feasible.

HE-4.2 **Housing for Low-income Seniors.** Encourage housing programs, which address the special financial needs of lower-income senior citizens.

HE-4.3 **Senior Community Housing.** Encourage the construction of specialized housing for senior citizens in the community, including planned senior communities.

HE-4.4 **Transit Accessible Senior Housing.** Encourage the placement of senior housing on public transit routes and within a short walking distance of daily shopping facilities and near medical facilities.

HE-4.5 **Second Dwelling Units.** Work with individuals who want to build second dwelling units on existing residential lots, in accordance with state law, in order to increase the supply of housing for elderly households.

HE-4.6 **Low-Income Housing for Large Households.** Encourage the construction of lower-income housing units of three bedrooms or more for large family households.

HE-4.7 **Handicap Accessible Housing.** Review developments receiving financial incentives to ensure that a reasonable number of units are designed and equipped for handicapped persons.

HE-4.8 **Housing Designed for Disabled.** Encourage construction of affordable housing units which meet the design needs of the disabled (including those with developmental disabilities).

EXHIBIT E

Yes In My Back Yard

1260 Mission St

San Francisco, CA 94103

hello@yimbylaw.org

10/24/2019

Simi Valley City Council
2929 Tapo Canyon Rd
Simi Valley, CA 93063

Keith L. Mashburn, Mayor, kmashburn@simivalley.org; Dee Dee Cavanaugh, Mayor Pro Tem, dcavanaugh@simivalley.org; Mike Judge, Council Member, mjudge@simivalley.org; Ruth Luevanos, Council Member, rluevanos@simivalley.org; Elaine P. Litster, Council Member, elitster@simivalley.org; CityClerk@simivalley.org;
Via Email

Re: Cochran St Senior Assisted Living Facility
APN 650-028-002, 650-026-003

Dear Simi Valley City Council,

Yes In My Back Yard submits this letter to inform you that the Simi Valley City Council has an obligation to abide by all relevant state housing laws when evaluating the above captioned proposal, including the Housing Accountability Act (HAA).

California Government Code § 65589.5, the Housing Accountability Act, prohibits localities from denying housing development projects that are compliant with the locality's zoning ordinance or general plan at the time the application was deemed complete, unless the locality can make findings that the proposed housing development would be a threat to public health and safety. The most relevant section is copied below:

> (j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:
>
> > (1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
> >
> > (2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

...

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

The applicant proposes to construct and operate a residential care facility with 68 assisted living units and 40 memory care units.

The above captioned proposal is zoning compliant and general plan compliant, therefore, your local agency must approve the application, or else make findings to the effect that the proposed project would have an adverse impact on public health and safety, as described above. The project requires a Conditional Use Permit and fulfills all objective criteria needed for the permit.

Yes In My Back Yard is a 501(c)3 non-profit corporation, whose mission is to increase the accessibility and affordability of housing in California.

Sincerely,

Sonja Trauss

Sonja Trauss
Secretary
Yes In My Back Yard

EXHIBIT F

AGENDA ITEM NO.
4B

CITY OF SIMI VALLEY
MEMORANDUM

November 4, 2019

TO: City Council

FROM: Department of Environmental Services

SUBJECT: A PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY CUP-S-812: JM SQUARED DEVELOPMENT, LLC, IS REQUESTING A CONDITIONAL USE PERMIT (CUP-S-812) TO CONSTRUCT AND OPERATE A RESIDENTIAL CARE FACILITY WITH 68 ASSISTED LIVING UNITS AND 40 MEMORY CARE UNITS LOCATED ON A 1.6-ACRE PORTION OF A 19.2-ACRE SITE ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT; ADOPT THE PROJECT'S MITIGATED NEGATIVE DECLARATION, AND ADOPTION OF A RESOLUTION

STAFF RECOMMENDATION

It is recommended that the City Council consider the Applicant's appeal of the Planning Commission's decision to deny Conditional Use Permit (CUP-S-812) and decision to not adopt the Mitigated Negative Declaration, evaluate public testimony, and select one of the following alternatives:

1. Adopt a resolution (page 12) denying the appeal, and upholding the Planning Commission's denial of CUP-S-812, and not adopting the Mitigated Negative Declaration;

or

2. Adopt, or modify and adopt, a resolution (page 17) upholding the appeal of the Planning Commission's decision, thereby approving CUP-S-812, and adopting the Mitigated Negative Declaration.

BACKGROUND AND OVERVIEW

The Applicant, JM Squared Development, LLC, proposes to construct and operate a 108-unit residential care facility with 68 assisted living units and 40 memory care units on a vacant 1.6-acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court. The remaining 17.6-acres is proposed to remain undeveloped. The Applicant is only requesting a Conditional Use Permit, since no legislative actions are required for the project. The applicant states the development is intended for seniors over age 55. The General Plan land use designation and Zoning designation for the site is Residential Medium and a Residential Care Facility is permitted subject to a Conditional Use Permit in the Zoning district. The application for this Project was "deemed complete" on May 28, 2019.

Planning Commission Action

The Project was heard by the Planning Commission on September 4, 2019, and the Commission denied the Project by a 4:1 vote, finding that the large scale of the building does not blend in with the natural environment, the housing type is not consistent with the purpose and intent of the General Plan, and the scale is not compatible with the existing single-family and multi-family residential uses (Refer to Exhibit 1 for Denial Resolution and findings and Exhibit 2 for Planning Commission Minutes).

On September 18, 2019, the Applicant filed an Appeal of the Planning Commission's decision. Refer to Appeal application and letter from Applicant dated September 18, 2019 (Attachment A). Under the provisions of the Simi Valley Municipal Code (SVMC) relating to appeals (SVMC Sec. 9-76.010 *et seq.*), the City Council has the ability to review the entire Project, as well as the specific grounds for appeal cited by the Applicant. In rendering its decision, the Council is reviewing *de novo*, and can take any action that could have been taken by the Planning Commission itself (that is, deny, approve or approve the Project with conditions).

The Conditional Use Permit request is described as follows:

The Project consists of 68 assisted living units and 40 memory care units. As part of the Project, a new sidewalk and street trees will be installed along the east side of Cochran Street from the Project site up to the 118 freeway bridge.

The 108-units will be located in a two-story building, with a setback of over 90 feet from Cochran Street, 30 feet from the nearest side property line, and 22 feet 6 inches from the rear property line. The entire building is approximately 265 feet long. The Applicant has proposed a one-story element 64 feet long, 12 feet tall adjacent to the nearest home on Welcome Court. The building height will be reduced along approximately 24% of the building in order to break up the bulk of the building appearance and provide privacy to the abutting residence. In addition, the building has two outdoor courtyards, one is 19 feet long and the other is 27 feet long, which reduces the mass of the building as well as providing outdoor patio areas for the residents.

In addition, the proposed two-story building massing is visually reduced by creating segments, using stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco. The Applicant has proposed colors to blend in with the existing hillside.

The residential care facility includes a lobby with a reception and concierge desk, dining room (separate dining room for memory care on second floor), club room/bar lounge area, hair salon, fitness room, lounges, and three outdoor courtyards for the residents.

The Project requires 54 parking spaces and the Applicant is proposing 12 parking spaces at grade level and 42 basement (on a level lower than grade) parking spaces (54 total parking spaces provided).

The General Plan Medium Density land use designation's purpose is generally intended to encourage a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor. The General Plan Housing Element for Special Needs Groups encourages the construction of specialized housing for senior citizens in the community, including planned senior communities. Although the units in this Project do not have kitchens or kitchenettes, and are therefore not counted in the City's Regional Housing Needs Assessment (RHNA) numbers, the general purpose of the facility is consistent with the Housing Element. The Zoning District Matrix for Residential Medium (RM) allows a residential care facility with a Conditional Use Permit.

In terms of traffic, the City Traffic Engineer has reviewed the Traffic Study prepared by Associated Transportation Engineers, dated January 31, 2019, and determined that the Level of Service (LOS) for intersection at Yosemite Avenue and Cochran Street will be maintained at a "LOS A" level with or without the project. The Project would generate 335 average daily trips with 24 a.m. and 34 p.m. peak hour trips. The residential care facility would contribute to the future improvements by payment of traffic mitigation fees to offset its cumulative traffic contributions.

In addition, at the September 4, 2019, Planning Commission meeting the Applicant submitted a Supplemental Traffic Analysis to address concerns of potential neighborhood impacts raised at the August 20, 2019, Neighborhood Council Development Review meeting (Refer to Exhibit 3). A multi-way STOP-sign warrant analysis was conducted on August 27, 2019 for the Cochran Street/Welcome Court intersection. The analysis concluded that due to the traffic volume it would not satisfy the eight-hour or four-hour minimum volume warrants; no collisions have been reported from January 2009 to December 2018; a speed hump is located mid-block between Welcome Court and Yosemite Avenue; on street parking serves as a calming function; and a posted 25 mph speed limit on Cochran Street so no new stop sign is warranted.

Refer to site exhibits included in Exhibit 3.

FINDINGS AND ALTERNATIVES

Planning Commission Findings:

The original Findings for Approval recommended by staff that were presented to the Planning Commission are on pages 17-34 of the September 4, 2019 Planning Commission staff report (found within City Council Exhibit 3). These recommended findings included statements on how the Project would be in compliance with the General Plan, Development Code, Hillside Performance Standards, Design Guidelines, and health, safety, and general welfare of the community.

In the Planning Commission's 4:1 vote of denial, Findings for Denial included: that the large scale of the building does not blend in with the natural environment; the housing type is not consistent with the purpose and intent of the General Plan; and the scale is not compatible with the existing single-family and multi-family residential uses.

Refer to Exhibit 1 for the Planning Commissions Resolution with complete findings for denial. Staff has reviewed the record and included additional draft findings based on the record as follows: (1) the proposed development would not blend in with the natural environment due to the large scale of the proposed building.

The stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco are not sufficient to blend the large structure into the natural environment; (2) the proposed two story building is double the height of the existing one story residences. The entire building is approximately 265 feet long compared to the nearest residences approximately 47 to 117 feet long; (3) the building scale is not softened by having a one-story portion of the building since the one-story portion is only a small portion of the building (64 feet long, approximately 24% of the building) and the building being set closest to the hillside to lower the building visibility does not lessen the appearance of the building due to the massing of the building (height approximately 30 feet tall) when viewed from the off-site existing single-family residences. The proposed residential care facility use is not compatible with the existing adjoining single-family and multi-family residential uses; and (4) condition*B-21 the reference to senior housing has been removed and replaced with residential care facility.

Applicant Stated Grounds for Appeal

The Applicant's grounds for appeal (Attachment A, page 38) states that the Planning Commission's denial of the Project is unjustified, objecting to the Planning Commission's conclusions on compatibility with the General Plan and violating the Housing Accountability Act (HAA). A summary of the Applicant's appeal letter is as follows:

1. Compatibility with General Plan: The proposed senior citizen housing development project provides a residential care facility for assisted living, with memory care, consistent with Simi Valley's General Plan Land Use Policies and specific Housing Element HE-4.3 as stated to: "Encourage the construction of specialized housing for senior citizens in the community, including planned senior communities."

2. Violating the Housing Accountability Act (HAA): The Applicant states that the Housing Accountability Act (Gov't Code 65589.5) applies to this Project. The Applicant further states that the Planning Commission exercised prejudicial abuse of discretion with its denial vote, including but not limited to violating the HAA. The City did not provide written documentation, as required by the HAA, identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development project to be inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision within 30 days of the Project determined to be complete (which was May 28, 2019). Thus, states the Applicant, the requirement to apply the HAA is now mandated as a matter of law, and therefore the Planning Commission abused its discretion in voting to disapprove on the relevant Project record under the HAA.

3. In addition, the Applicant states that Civil Code Section 51.3 is essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.

Staff Analysis of Appeal

1. HAA Not Applicable

As a preliminary matter, in order to provide the City Council with the appropriate framework to consider the Appeal, it is necessary to determine whether the Project is subject to the HAA. If the Project were subject to the HAA, the City's discretion would be limited because of the strict requirements of that law.

In consultation with the City Attorney's Office, this Project is not subject to the HAA. The HAA applies to "housing development projects" as well as "transitional" or "supportive" housing. This project is not "supportive housing," as the Government Code ("GC") defines supportive projects as those focused on the homeless population (*see* GC Sec. 65582(i)). The Project is likewise not "transitional" housing, which has a maximum length of stay of six months. (GC Sec. 65582(j)).

"Housing development projects" are defined as including "residential units" under the HAA. The term "residential units" is not defined in the law. However, it is reasonable to use the State Housing and Community Development Department's ("HCD's") guidance regarding a City's the Annual Progress Report ("APR") to determine whether a project includes residential units. For purposes of counting units towards the RHNA, HCD only gives credit for "housing units" as defined by the California Department of Finance for inclusion in the annual E-5 City/County Population and Housing Estimates report, which is the same as the US Census definition for a housing unit. The full Census definition is provided below for reference, but importantly housing units must consist of separate living quarters; developments where residents live or eat with other people are group quarters that are not "housing units."

Because the living quarters in this Project do not include kitchens or kitchenettes, it is therefore not subject to the HAA. Further, the City is not reporting these quarters to HCD for RHNA credit in the APR, and the City's Municipal Code does not define this Project as including residential or dwelling units. In addition, the City does not charge a housing fee for the rooms in this Project, does not subject projects such as this to the housing allocation system, and does not consider the units to be housing for any purpose under the SVMC.

US Census Definition of Housing Unit (underlining added):

"Housing 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.

For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible. If the information cannot be obtained, the criteria are applied to the previous occupants. Tents and boats are excluded if vacant, used for business, or used for extra sleeping space or vacations. Vacant seasonal/migratory mobile homes are included in the count of vacant seasonal/migratory housing units.

Living quarters of the following types are excluded from the housing unit inventory: 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."

2. General Plan Consistency

Although the Applicant has alleged that the Project is consistent with the General Plan, the City Council would be able to utilize the substantial evidence test to either find consistency or inconsistency with the General Plan, at the Council's discretion. The resolutions approving or denying the Project in this staff report contain factual findings to support whichever position the Council wishes to take. Therefore, the Applicant's grounds for appeal regarding consistency with the General Plan may either be accepted or rejected by the Council.

The findings for a CUP will be reviewed by a court for "substantial evidence." This provides some deference to the findings of the City Council. The substantial evidence test is as follows: (1) does substantial evidence support the administrative findings; and 2) Do the findings support the decision? Per case law, "substantial evidence" exists when the administrative record provides any reasonable factual basis for the findings. Substantial evidence may be found in staff reports, opinions, and agency members' comments, or any other factual basis in the record.

If Council wishes to find consistency with the General Plan, the following facts provide a basis for such consistency, which have been incorporated through the draft resolution of approval. As indicated in the September 4, 2019, Planning Commission staff report, the proposed Project is supported by staff and can be approved with support of the stated Findings: (a) The proposed building's color palette of brown, bronze and cultured pearl along with the brown and gray stonework blend in with the natural environment of the hillside. (b) The one-story element 12 feet tall adjacent to the nearest home reduces the overall height of the building and the two courtyards break up the appearance of the building. (c) The applicant minimized hillside disturbance by proposing the residential care facility at the base of the hill rather on the hill visually reducing the impact to neighbors. (d) The scale of the Project is compatible with the multi-family residences directly across the street in regards to height and grouping of buildings. (e) The General Plan Housing Element and the Zoning District allow for a residential care facility for seniors.

3. Civil Code Sec. 51.3 Not Applicable

Although Applicant is correct that California Civil Code Sec. 51.3 describes requirements applicable to senior housing in California, no provision of that law would require the City Council to approve this particular project.

This is because Civil Code Sec. 51.3 does not provide a remedy regarding housing that is not yet built, but instead focuses on the rights of residents of existing senior housing projects, and how the covenants for such projects should be formulated. There is no applicability to this Project.

Standard of Review

Pursuant to SVMC Section 9-76.060(D), this appeal is *de novo*. Therefore, the City Council may consider any issues associated with the prior decision being appealed, in addition to the specific grounds for the current appeal. The City Council shall also consider any environmental determination applicable to the entitlement being appealed. By way of Resolution, the City Council may uphold, uphold in part, or reverse the decision that is the subject of the appeal, and may adopt additional conditions of approval deemed reasonable and necessary. When reviewing an appeal, the City Council shall adopt findings, based upon substantial evidence, in support of the intended action on the appeal. The nature of the findings shall be in compliance with the findings adopted by the original review authority.

Options for Council

If the City Council desires to deny the appeal of the Project, the Findings for Denial are contained in the attached resolution (page 12). If the City Council desires to uphold the appeal and approve the Project, the Findings for Approval are contained on pages 4-8 of the Planning Commission staff report dated September 4, 2019 (within City Council Exhibit 3).

The following alternatives are available to the City Council in its consideration of the appeal of the Planning Commission's decision to deny CUP-S-812, after its evaluation of public testimony:

1. Adopt a resolution (page 12) denying the Appeal, making findings in support of this decision, and upholding the Planning Commission's denial of CUP-S-812, and not adopting the Mitigated Negative Declaration;

2. Adopt, or modify and adopt, a resolution (page 17) upholding the Appeal of the Planning Commission's decision, thereby approving CUP-S-812, making findings in support of this decision, and adopting the Mitigated Negative Declaration;

3. Refer the matter back to staff or the Planning Commission;

4. Provide staff with other direction.

Staff recommends that the City Council consider the Applicant's appeal of the Planning Commission's decision to deny CUP-S-812, and not adopt the Mitigated Negative Declaration, evaluate public testimony, and select either Alternative No. 1 or 2.

SUGGESTED CITY COUNCIL MOTION

To deny:

I move to adopt a resolution (page 12) denying the Appeal, making findings in support of this decision, and upholding the Planning Commission's denial of CUP-S-812, and not adopting the Mitigated Negative Declaration.

OR

To approve:

I move to adopt, or modify and adopt a resolution (page 17) upholding the Appeal of the Planning Commission's decision, thereby approving CUP-S-812, making findings in support of this decision, and adopting the Mitigated Negative Declaration.

SUMMARY

The Applicant, JM Squared Development, LLC, proposes to construct and operate a residential care facility with 68 assisted living units and 40 memory care units on a vacant 1.6-acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court. At the September 4, 2019, meeting, the Planning Commission denied the Project by a 4:1 vote, finding that the large scale of the building does not blend in with the natural environment, the housing type is not consistent with the purpose and intent of the General Plan, and the scale is not compatible with the existing single-family and multi-family residential uses. On September 18, 2019, the Applicant filed an Appeal of the Planning Commission's decision, citing the project is compatible with the General Plan and denying the project violates the Housing Accountability Act (HAA).

Staff recommends that the City Council either: Adopt a resolution (page 9) denying the appeal, making findings in support of this decision, and upholding the Planning Commission's denial of CUP-S-812, and not adopting the Mitigated Negative Declaration; or adopt, or modify and adopt, a resolution (page 17) upholding the appeal of the Planning Commission's decision, thereby approving CUP-S-812, making findings in support of this decision, and adopting the Mitigated Negative Declaration.

Ronald K. Fuchiwaki
Interim Environmental Services Director

Prepared by: Donna Rosser, Senior Planner

INDEX Page

Public Hearing Procedure 10
Resolution Denying the Appeal and Upholding the Denial of CUP-S-812 12
Resolution Upholding the Appeal and Approving CUP-S-812 and
Adopting the Mitigated Negative Declaration 17
Attachment A - Appeal Application 38
Exhibit 1 – Planning Commission Denial Resolution
Exhibit 2 – September 4, 2019 Planning Commission Minutes
Exhibit 3 – September 4, 2019 Planning Commission Staff Report

EXHIBIT G

RESOLUTION NO. 2019-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE PLANNING COMMISSION TO DENY CONDITIONAL USE PERMIT (CUP-S-812), AND THE PROJECT'S MITIGATED NEGATIVE DECLARATION, TO CONSTRUCT AND OPERATE A RESIDENTIAL CARE FACILITY WITH 68 ASSISTED LIVING UNITS AND 40 MEMORY CARE UNITS LOCATED ON COCHRAN STREET, 150 FEET EAST OF WELCOME COURT

WHEREAS, the Applicant, JM Squared Development, LLC, has requested approval of a Conditional Use Permit (CUP-S-812) for a vacant 1.6 acre portion of a 19.2-acre site on Cochran Street, 150 feet east of Welcome Court, known as Ventura County Assessor's Parcel Nos. 650-0-260-03, -280-02, -280-03 and by the legal description attached hereto as Exhibit A, for the purpose to construct and operate a residential care facility with 68 assisted living units and 40 memory care units; and adopt the project's Mitigated Negative Declaration; and

WHEREAS, on September 4, 2019, the Planning Commission of the City of Simi Valley considered evidence and testimony on CUP-S-812, and the Mitigated Negative Declaration, and denied the project by a 4:1 vote; and

WHEREAS, on September 18, 2019, the Applicant filed an Appeal of the Planning Commission's decision on the grounds that project is compatible with the General Plan, the Planning Commission violated the Housing Accountability Act and California Civil Code Sec. 51.3 was not followed; and

WHEREAS, on November 4, 2019, the City Council considered the Applicant's appeal, and evidence and testimony on the proposed project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The findings for denial for CUP-S-812 is hereby adopted as follows:

1. The proposed use is not consistent with the purpose, intent, goals, policies, programs, and land use designations of the General Plan (SVMC Section 9-52.070.G.2) in that the following General Plan Policies **cannot be met:**

a. General Plan Land Use Policy LU-4.8 states: Design buildings to be architecturally integrated into the terrain and blend with the natural environment.

The proposed development would not blend in with the natural environment due to the large scale of the proposed building. The stone veneer on the towers and building elevations, wood-like siding, and neutral colored stucco are not sufficient to blend the large structure into the natural environment. Therefore, this policy cannot be met.

b. The purpose of the Residential Medium Density Land Use designation is to encourage a predominantly single-family residential environment with a wide range of lot sizes, but an overall density similar to the bulk of single-family developments on the valley floor. The proposed development is not consistent with the purpose and intent of the General Plan in regards to housing type and bulk of the proposed building being out of scale. The building is a residential facility and the adjacent neighborhood contains one-story single-family residences and two-story townhomes. The proposed two story building is double the height of the existing one story residences. The entire building is approximately 265 feet long compared to the nearest residences approximately 47 to 117 feet long. Therefore, the Project is not consistent with the Residential Medium Density Land Use.

2. The design, location, operating characteristics, and size of the proposed use is **not compatible** with the existing and future land uses in the vicinity, in terms of aesthetics, character, scale, and view protection (SVMC Section 9-52.070.G.4): The building scale is not softened by having a one-story portion of the building since the one-story portion is only a small portion of the building (64 feet long, approximately 24% of the building) and the building being set closest to the hillside to lower the building visibility does not lessen the appearance of the building due to the massing of the building (height approximately 30 feet tall) when viewed from the off-site existing single-family residences. The proposed residential care facility use is not compatible with the existing adjoining single-family and multi-family residential uses. Therefore, this finding **cannot be met**.

3. The City Council further finds, upon testimony received in the record, a safety concern particularly regarding emergency situations, wherein, there was testimony regarding the 40-foot wide Cochran Street road size, difficulty of turnaround on-site for large vehicles, and the area traffic congestion during emergency situations (i.e. earthquakes, fire, and other natural disasters) that could pose additional safety concerns.

SECTION 2. Based on the evidence and testimony presented, and the findings contained in Section 1, the City Council hereby denies the Appeal, upholding the Planning Commission's decision to deny CUP-S-812 and not adopt the Mitigated Negative Declaration.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the Office of the City Clerk.

PASSED and ADOPTED this 4th day of November 2019.

Attest:

Lucy Blanco, City Clerk

Keith L. Mashburn, Mayor of the City of Simi Valley, California

Approved as to Form:

Lonnie J. Eldridge, City Attorney

Approved as to Content:

Brian Paul Gabler, Interim City Manager

Ronald K. Fuchiwaki
Interim Environmental Services Director

EXHIBIT H

providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, in-patient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports (see the separate definition of "Accessory Retail and Services").

Medical Services - Nursing and Personal Care. See "Medical Services - Extended Care."

Membership Sports and Recreation Clubs. Sports and recreation clubs which are restricted to use by members and their guests. Country, golf, tennis, and amateur sports and recreation clubs are included.

Metal Industries, Primary. Manufacturing establishments engaged in the smelting and refining of ferrous and nonferrous metals from ore, pig, or scrap; in the rolling, drawing, and alloying of ferrous and nonferrous metals; in the manufacture of castings, forgings, stampings, extrusions and other basic products of ferrous and nonferrous metals; and in the manufacture of nails, spikes, and insulated wire and cable. Merchant blast furnaces and by-product or beehive coke ovens are also included.

Metal Products Fabrication, Machine and Welding Shops. Establishments engaged primarily in the assembly of metal parts, including the following uses that produce metal duct work, tanks, towers, cabinets and enclosures, metal doors and gates, and similar products:

blacksmith and welding shops

sheet metal shops

machine shops and boiler shops

Mined Lands. The surface, subsurface, and groundwater of an area where surface mining operations will be, are being, or have been conducted, including all accessory access roads, land excavations, workings, mining waste, and areas where structures, facilities, and surface mining equipment, machines, tools, or other materials or property are located.

Mineral. Any naturally occurring chemical element, compound, or groups of elements and compounds, formed from inorganic processes or organic substances, including, but not limited to, coal, granite, limestone, metals, pear, "redrock" sand and gravel, tar sand, and bituminous sandstone, but excluding geothermal resources, natural gas, and petroleum.

Mixed-Use Development, Horizontal. A cohesive development that contains a

combination of commercial, office, and residential uses side-by-side in a single building or in separate buildings on the same project site.

Mixed-Use Development, Vertical. A cohesive development that contains a combination of commercial, office, and residential uses stacked within a single building (for example, a building that contains retail uses on the first floor, office uses on the second floor, and residential uses on the third floor).

Mobile Home. A trailer, transportable in one or more sections, that is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974, which is over eight feet in width and 40 feet in length, with or without a permanent foundation and not including recreational vehicles, commercial coaches or factory-built housing. A mobile home on a permanent foundation is included under the definition of "Single-Family Dwellings."

Mobile Home Park. Any site that is planned and improved to accommodate two or more mobile homes used for residential purposes, or on which two or more mobile home lots are rented, leased, or held out for rent or lease, or were formerly held out for rent or lease and later converted to a subdivision, cooperative, condominium, or other form of resident ownership, to accommodate mobile homes used for residential purposes.

Mobile Home, RV, and Boat Sales. Retail establishments selling both mobile home dwelling units, and/or various vehicles and watercraft for recreational uses. Includes the sales of boats, campers and camper shells, jet skis, mobile homes, motor homes, and travel trailers.

Model Home. A dwelling unit temporarily used for display purposes as an example of dwelling units available for sale or rental in a particular residential development.

Mortuaries and Funeral Homes. Funeral homes and parlors, where deceased are prepared for burial or cremation, and funeral services may be conducted.

Motor Vehicles and Transportation Equipment. Manufacturers of equipment for transporting passengers and cargo by land, air and water, including motor vehicles, aircraft, spacecraft, ships, boats, railroad and other vehicles such as motorcycles, bicycles and snowmobiles. Includes manufacture of motor vehicle parts and accessories; trailers and campers for attachment to other vehicles; self-contained motor homes; and van conversions. Does not include mobile home and modular home assembly (listed under "Lumber and Wood Products").

Mulch. A protective covering such as wood chips and gravel that is spread uncompacted

Containers), repairs include maintenance of a facility in good operating condition which do not materially add to the value of the facility and do not substantially extend the life of the facility.

Research and Development (R&D). Facilities for scientific research, and the design, development and testing of electrical, electronic, magnetic, optical, computer, and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities. Includes pharmaceutical, chemical, and biotechnology research and development. Does not include soils and other materials testing laboratories (see "Business Support Services"), or medical laboratories (see "Medical Services - Clinics and Labs").

Residential Care Facility. A single-dwelling unit or multiple-unit facility licensed or supervised by any Federal, State, or local health/welfare agency that provides 24-hour non-medical care of unrelated persons who are in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual in a family-like environments, including group homes.

Residential Common Recreation Area. Within a residential or mixed-use development, this is a common area, either located outdoors or indoors, for active recreation purposes (such as a pool, tot lot, tennis court, recreation room, etc.) or passive recreation purposes (such as a picnic or barbeque area) that is accessible to, and shared exclusively by, the residents and their visitors of the residential or mixed-use development.

Residential Private Open Space. Within a residential or mixed-use development, this is private outdoor space that is connected to an individual residential unit and is accessible to, and used exclusively by, the occupants and their visitors of the unit.

Restaurant. A retail business selling ready-to-eat food for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption, and establishments where most customers are served food at tables for on-premise consumption, but may include providing food for take-out. Also includes coffee houses.

Retail Sales and Services. The sale of goods, articles or services individually or usually in small quantities directly to the ultimate consumer or general public.

Riding and Hiking Trails. Trails for equestrian use, biking, and/or hiking, as designated, maintained by a public or private entity.

exposed to public view, whether mounted on the outside or inside of a window surface. These shall also include all interior signs which face a window exposed to public view and that are located within two feet of the window.

Simi Valley Subdivision Improvements Standards and Specifications. As authorized by Map Act Section 66462(b), the current edition of "Standards Specifications for Public Works Construction" (Green Book), "Road Standards," "Standard Plans for Public Works Construction," "Standard Land Development Specifications," "Standard Specifications," and any other specifications adopted by the Council are hereby adopted by reference and all subdivision improvements shall be designed and installed in compliance with these standards and specifications, and the amendments and additions made from time to time by the Council. In the event of conflict between the specifications, the City Engineer's decision shall be final as to which improvement standard is applicable.

Single Room Occupancy (SRO) Unit. A small residential unit (usually between 200-350 square feet) consisting of one habitable room in a structure with other similar units. Residents may share bathrooms and/or kitchen facilities or some units may include bathrooms and/or kitchenettes.

Single-Occupant Vehicle. Any vehicle capable of transporting two or more persons, but when in use is occupied by only one person.

Site. A parcel or a portion of a parcel, and/or or adjoining parcels or portions of parcels, considered a unit for the purposes of development or other use in compliance with this Development Code.

Slope. The relationship between the change in elevation (rise) of land and the horizontal distance (run) over which such change in elevation occurs. The percent of any given slope is determined by dividing the rise by the run on the natural slope of land, multiplied by 100, and expressed as percentage.

Social Service Organizations. Public or quasi-public establishments providing social services and rehabilitation services, counseling centers, welfare offices, job counseling and training centers, or vocational rehabilitation agencies, serving persons with social or personal problems requiring special services, and the handicapped and the otherwise disadvantaged. Includes organizations soliciting funds to be used directly for these and related services, and establishments engaged in community improvement and neighborhood development. Does not include day care services, emergency shelters and transitional housing, or "Residential Care," which are separately defined.

EXHIBIT I

Chapter 9-24 - Residential and Open Space Zoning Districts

9-24.010 - Purpose of Chapter

This Chapter lists the uses of land that may be allowed within the residential and open space zoning districts established by Section 9-20.020 (Zoning Districts Established). It also determines the type of Land Use Permit approval required for each use and provides the general standards for site development.

(§ 5, Ord. 1085, eff. January 6, 2006)

9-24.020 - Purposes of Residential and Open Space Zoning Districts

Different residential zoning districts are intended to provide a range of housing types that are affordable and attractive, in well-designed residential neighborhoods. Open space zoning districts maintain community open space resources for purposes ranging from conservation, to preserving community land use options. Requirements for the land uses allowed in the residential and open space zoning districts, and standards for development project site planning, design, residential density, and minimum parcel size are found in Sections 9-24.030 and 9-24.040, respectively. The purposes of the individual residential and open space zoning districts and the manner in which they are applied are as follows:

A. **OS (Open Space) District.** The OS zoning district is intended to provide for the conservation of renewable and nonrenewable natural resources, to preserve and enhance environmental quality, and to provide for the retention of the maximum number of future land use options while allowing reasonable and compatible uses on open lands in the City that have not been altered to any major extent by human activities. The maximum density for residential uses is one primary dwelling unit for each 40 acres. (1)(2)

B. **RE (Residential Estate) District.** The RE zoning district is intended to provide for a custom-designed residential environment with very large lots, houses of an individual style, and a distinct single-family neighborhood image. The minimum lot area in this zoning district is one acre and the maximum residential density is one dwelling per lot. (1)(2)

C. **RVL (Residential Very Low Density) District.** The RVL zoning district is intended to provide for a semi-rural single-family residential environment with relatively large lots. The minimum lot area in this zoning district is 20,000 square feet, and the maximum residential density is one dwelling per lot. (1)(2)

D. **RL (Residential Low Density) District.** The RL zoning district is intended to provide for a suburban single-family residential environment with a range of parcel sizes, but with generally low density and some clustering of parcels. The residential density in this zoning

district may range from 2.1 to 3.5 dwelling units per acre. The maximum density is one dwelling per lot. (1)(2)

E. **RM (Residential Medium Density) District.** The RM zoning district is intended to provide for a suburban single-family residential environment with a range of parcel sizes and some clustering of parcels. The residential density in this zoning district may range from 3.6 to 5.0 units per acre. The maximum density is one dwelling per lot. (1)(2)

F. **RMod (Residential Moderate Density) District.** The RMod zoning district is intended to provide for moderate density detached single-family or multi-family dwellings. The residential density in this zoning district may range from 5.1 to 10.0 units per acre. (1)(2)(3)

G. **RH (Residential High Density) District.** The RH zoning district is intended for areas of more compact multi-family residential developments, such as townhouses, garden apartments, and other multiple-unit dwellings. The residential density in this zoning district may range from 10.1 to 20 units per acre. (2)

H. **RVH (Residential Very High Density) District.** The RVH zoning district is intended to provide for areas of relatively high density, with compact multi-family residential development near district of community shopping centers. The residential density in this zoning district may range from 20.1 to 35.0 units per acre. (2)

I. **MH (Mobile Home) District.** The MH zoning district is intended to accommodate mobile home parks, to expand the range of housing opportunities available in the community. The residential density in this zoning district may range from 0 to 8 units per acre. (2)

J. **W (Water Storage Facilities) District.** The W zoning district establishes areas within the City reserved for the location of water storage facilities and wireless telecommunications facilities on property owned by government agencies. This zone is consistent with all underlying General Plan land use designations.

K. **WP (Water Storage Facilities) District.** The WP zoning district establishes areas in the City reserved for the location of water storage tanks, on privately owned property, and properly situated for the placement and safe aesthetic operation of wireless telecommunications facilities on property containing water storage facilities with ownerships other than government agencies or utilities regulated by the Public Utilities Commission while minimizing impacts on the immediately natural environment. This zone is consistent with all underlying General Plan land use designations.

Notes:

(1) Except as provided by Sections 9-44.150, 9-44.160 relating to Second Dwelling units.

(2) Minimum density for each residential zone may be less than the densities indicated above due to maximum residential dwelling unit calculations for units subject to the Hillside Performance Standards, Section 9-32.070.

(3) Depending on the type of development, either the single-family residential standards or the multi-family residential standards will apply to the project.

(§ 5, Ord. 1085, eff. January 6, 2006, as amended by Exh. A, Ord. 1147, eff. August 20, 2009 and § 3 (Exh. B), Ord. No. 1193, eff. July 19, 2012)

9-24.030 - Residential and Open Space District Land Uses and Permit Requirements

A. Table 2-2 identifies the uses of land allowed by this Development Code in the residential and open space zoning districts, and the land use permit required to establish each use, in compliance with Chapter 9-22 (Land Use Permit Requirements). Regardless of the permit requirement established by Table 2-2, Planned Development Permit (Section 9-52.050) approval is also required for all construction of new residential units.

Note: Where the last column in the tables ("Specific Use Regulations") includes a section number, the regulations in the referenced section apply to the use; however, provisions in other sections of this Development Code may also apply.

B. **Specific Plan (SP) Land Use Designations and Zoning Districts:** Allowable land uses within Specific Plans shall be determined by the applicable specific plan, except that commercial nonmedicinal and medicinal cannabis uses, operations, and activities, including cultivation, dispensaries, distribution, deliveries, manufacturing, processing, microbusinesses, storing, laboratory testing, packaging, labeling, and transportation facilities are prohibited uses in the City (refer to Chapter 5-41 for Nonmedicinal and Medicinal Cannabis Standards).

TABLE 2-2 Allowed Uses and Permit Requirements for Residential and Open Space Zoning Districts										P Permitted Use (2) CUP Conditional Use Permit required HP Home Occupation Permit required — Use not allowed
LAND USE (1)	PERMIT REQUIRED BY DISTRICT									Specific Use Regulations
	OS	RE	RVL	RL	RM	Rmod	RH	RVH	MH	
AGRICULTURE, RESOURCE, NONMEDICINAL AND MEDICINAL CANNABIS, & OPEN SPACE USES										
Nonmedicinal or medicinal cannabis collectives and cooperatives	—	—	—	—	—	—	—	—	—	

Nonmedicinal or medicinal personal cannabis at residences (indoors only)	P	P	P	P	P	P	P	P	P	5-41
Commercial nonmedicinal or medicinal cannabis, or industrial hemp uses, operations, and activities	—	—	—	—	—	—	—	—	—	
Commercial nonmedicinal or medicinal cannabis dispensaries	—	—	—	—	—	—	—	—	—	5-41
Crop production, horticulture, orchards & vineyards, except industrial hemp	P	P	P	P	P	P	P	P	P	5-41
Farm animal (4)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	9-44.060 (3)
Oil and gas exploration and extraction	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Produce stands	P	P	P	P	P	P	P	P	P	
Quarries, surface mining, mining	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	9-44.190

RECREATION, EDUCATION & PUBLIC ASSEMBLY USES										
Clubs, lodges, membership meeting halls	—	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Community centers	—	—	—	—	CUP	CUP	CUP	CUP	CUP	
Equestrian facilities	CUP	CUP	CUP	CUP	CUP	—	—	—	—	9-44.050
Golf courses and driving ranges	P	P	P	P	P	P	P	P	P	
Gun clubs and shooting ranges	CUP	—	—	—	—	—	—	—	—	
Parks and playgrounds	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Religious facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	—	
Riding and hiking trails	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Schools - Elementary and secondary	—	—	—	—	CUP	CUP	CUP	CUP	—	
Schools - Universities, colleges	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
RESIDENTIAL USES										
Accessory residential uses and structures	P	P	P	P	P	P	P	P	P	9.52-050

Boarding and lodging houses	—	—	CUP	CUP	CUP	CUP	CUP	CUP	—	
Caretaker dwelling, more than 6 months duration	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Emergency Shelter	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	9-44.195
Home occupations	HP	HP	HP	HP	HP	HP	HP	HP	HP	9-44.090
Household pets	P	P	P	P	P	P	P	P	P	9-44.060
Mobile home parks	—	CUP	CUP	CUP	CUP	CUP	CUP	CUP	PD	9-24.060 (B)(5)
Multi-family dwellings	—	—	—	—	—	P	P	P	—	
Residential care facility, 6 or fewer clients	P	P	P	P	P	P	P	P	P	9-24.060(A)(2)
Residential care facility, 7 or more clients	—	—	—	CUP	CUP	CUP	CUP	—	—	
Accessory dwelling unit	P	P	P	P	P	P	P	P	—	9-44.160
Junior Accessory Dwelling Unit	P	P	P	P	P	P	P	P	—	9-44.160
Single-family dwellings	P	P	P	P	P	P	—	—	—	

RETAIL & SERVICE USES										
Accessory retail or service uses for project residents	—	—	—	—	—	CUP	CUP	CUP	CUP	9-24.060(A)(3)
Bed and breakfast inns	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	—	
Child/adult day care - Small family day care home	P	P	P	P	P	P	P	P	—	9-24.060(A)(2)
Child/adult day care - Large family day care home	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	—	9-44.100 (3)
Child/adult day care - Day care center	—	—	—	—	CUP	CUP	CUP	—	—	
Cemeteries	CUP	—	—	—	—	—	—	—	—	
Fire stations	P	P	P	P	P	P	P	—	—	
Government buildings	P	P	P	P	P	P	P	—	—	
Law enforcement facilities	—	—	P	P	P	P	P	—	—	
Libraries	—	—	—	—	CUP	CUP	CUP	CUP	—	
Medical services - Hospitals	—	—	—	—	CUP	CUP	CUP	CUP	—	
TRANSPORTATION, COMMUNICATIONS & INFRASTRUCTURE USES (5)										

Helistop	CUP	CUP	—	—	—	—	—	—	—	
Pipelines & transmission lines, aboveground facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Public utility facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Telecommunications facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP		9-46.020

Notes:

(1) See Article 8 for land use definitions. All commercial nonmedicinal or medicinal cannabis, and industrial hemp uses, operations, and activities, including collectives and cooperatives are prohibited (refer to Chapter 5-41 for Medicinal and Medicinal Cannabis Standards).

(2) A Planned Development Permit (Section 9-52.050) is also required for all new development.

(3) Administrative Conditional Use Permit required.

(4) CUP not required for farm animals in A, L or H Overlay Zones.

(5) Wireless Telecommunications Facilities shall not be subject to the CUP requirement for Telecommunications Facilities, as set forth in the above Table, and instead shall be subject to the permit requirements of Chapter 35 of Title 5 of the Simi Valley Municipal Code.

(§ 5, Ord. 1085, eff. January 6, 2006, as amended by § 2, Ord. 1094, eff. July 20, 2006; § 2, Ord. 1103, eff. November 23, 2006; § 2 (Exh. A), Ord. No. 1221, eff. February 13, 2014; § 2 (Exh. A) Ord. No. 1255, eff. April 14, 2016; § 2(Exh. A), Ord. No. 1265, eff. January 9, 2017; § 5 (Exh. A), Ord. No. 1279, eff. October 30, 2017 and § 5 (Exh. A) Ord. No. 1280, eff. December 14, 2017)

9-24.040 - Residential and Open Space District General Development Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Table 2-3, in addition to the applicable standards in Article 3 (Development and Operational Standards).

EXHIBIT J

Housing Unit (Construction)

Definition

A housing unit, as defined for purposes of these data, is a house, an apartment, a group of rooms, or a single room intended for occupancy as separate living quarters. Separate living quarters are those in which the occupants live separately from any other individuals in the building and which have a direct access from the outside of the building or through a common hall.

In accordance with this definition, each apartment unit in an apartment building counts as one housing unit. Housing units, as distinguished from "HUD-code" manufactured (mobile) homes, include conventional "site-built" units, prefabricated, panelized, sectional, and modular units.

Housing unit statistics also exclude group quarters (such as dormitories and rooming houses), transient accommodations (such as transient hotels, motels, and tourist courts), moved or relocated buildings, and housing units created in an existing residential or nonresidential structure.

Units in assisted living facilities are considered to be housing units, however, units in nursing homes are not considered to be housing units.

More information

Building Permits Survey, Characteristics of New Housing, New Residential Construction, New Residential Sales

EXHIBIT K

South: Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia, Alabama, Kentucky, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma, Texas.

West: Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming, Alaska, California, Hawaii, Oregon, Washington.

Housing 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. For vacant units, the criteria of separateness and direct access are applied to the intended occupants whenever possible. If the information cannot be obtained, the criteria are applied to the previous occupants. Tents and boats are excluded if vacant, used for business, or used for extra sleeping space or vacations. Vacant seasonal/migratory mobile homes are included in the count of vacant seasonal/migratory housing units. Living quarters of the following types are excluded from the housing unit inventory: 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.

Occupied Housing Units. A housing unit is occupied if a person or group of persons is living in it at the time of the interview or if the occupants are only temporarily absent, as for example, on vacation. The persons living in the unit must consider it their usual place of residence or have no usual place of residence elsewhere. The count of occupied housing units is the same as the count of households.

Householder. The householder refers to the person (or one of the persons) in whose name the housing unit is owned or rented or, if there is no such person, any adult member, excluding roomers, boarders, or paid employees. If the house is jointly owned by a married couple, either the husband or the wife may be listed first, thereby becoming the reference person, or householder, to whom the relationship of the other household members is recorded. One person in each household is designated as the "householder."

Vacant Housing Units. A housing unit is vacant if no one is living in it at the time of the interview, unless its occupants are only temporarily absent. In addition, a vacant unit may be one which is entirely occupied by persons who have a usual residence elsewhere. New units not yet occupied are classified as vacant housing units if construction has reached a point where all exterior windows and doors are installed and final usable floors are in place. Vacant units are excluded if they are exposed to the elements, that is, if the roof, walls, windows, or doors no longer protect the interior from the elements, or if there is positive evidence (such as a sign on the house or block) that the unit is to be demolished or is condemned. Also excluded are quarters being used entirely for nonresidential purposes, such as a store or an office, or quarters used for the storage of business supplies or inventory, machinery, or agricultural products. Vacant sleeping rooms in lodging houses, transient accommodations, barracks, and other quarters not

EXHIBIT L

Senate Bill No. 167

CHAPTER 368

An act to amend Section 65589.5 of the Government Code, relating to housing.

[Approved by Governor September 29, 2017. Filed with Secretary of State September 29, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 167, Skinner. Housing Accountability Act.

(1) The Housing Accountability Act, among other things, prohibits a local agency from disapproving, or conditioning approval in a manner than renders infeasible, a housing development project for very low, low-, or moderate-income households or an emergency shelter unless the local agency makes specified written findings based upon substantial evidence in the record.

This bill would require the findings of the local agency to instead be based on a preponderance of the evidence in the record.

(2) The act authorizes a local agency to disapprove or condition approval of a housing development or emergency shelter, as described above, if, among other reasons, the housing development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with specified law.

This bill would specify that a change to the zoning ordinance or general plan land use designation subsequent to the date the application was deemed complete does not constitute a valid basis to disapprove or condition approval of the housing development project or emergency shelter.

(3) The act defines various terms for purposes of its provisions, including the term "housing development project," which is defined as a project consisting either of residential units only, mixed-use developments consisting of residential and nonresidential units, or transitional housing or supportive housing. For a mixed-use development for these purposes, the act requires that nonresidential uses be limited to neighborhood commercial uses, as defined, and to the first floor of buildings that are 2 or more stories.

This bill would instead require, with respect to mixed-use developments, that ⅔ of the square footage be designated for residential use.

(4) If a local agency proposes to disapprove a housing development project that complies with applicable, objective general plan and zoning standards and criteria, or to approve it on the condition that it be developed at a lower density, the act requires that the local agency base its decision

upon written findings supported by substantial evidence on the record that specified conditions exist.

This bill would specify that a housing development project or emergency shelter is deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision for purposes of the above-described provisions if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity. The bill, if the local agency considers the housing development project to be inconsistent, not in compliance, or not in conformity, would require the local agency to provide the applicant with written documentation identifying the provision or provisions, and an explanation of the reason or reasons it considers the housing development to be inconsistent, not in compliance, or not in conformity within specified time periods. If the local agency fails to provide this documentation, the bill would provide that the housing development project would be deemed consistent, compliant, and in conformity with the applicable plan, program, policy, ordinance, standard, requirement, or other similar provision. By requiring local agencies to provide documentation related to disapprovals of housing development projects, this bill would impose a state-mandated local program.

(5) The act authorizes the project applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization, as defined, to bring an action to enforce its provisions.

This bill would entitle a housing organization to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce the act.

(6) If a court finds that the local agency disapproved, or conditioned approval in a manner that renders infeasible the project or emergency shelter or housing for very low, low-, or moderate-income households without making the required findings or without making sufficient findings, the act requires the court to issue an order or judgment compelling compliance with its provisions within 60 days, including an order that the local agency take action on the development project or emergency shelter and awarding attorney's fees and costs.

This bill would additionally require the court to issue an order compelling compliance with the act, as described above, if it finds that either the local agency, in violation of a specified provision of the act, disapproved or conditioned approval of a housing development project in a manner rendering it infeasible for the development of an emergency shelter or certain housing without making the required findings or without making findings supported by a preponderance of the evidence, or, the local agency, in violation of another specified provision of the act, disapproved a housing development project complying with specified standards and criteria or imposed a condition that the project be developed at a lower density, without making the required findings or without making findings supported by a preponderance of the evidence. The bill would authorize the court to issue

an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development project or emergency shelter in violation of the act.

(7) The act authorizes the court to impose fines if it finds that a local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter and failed to carry out the court's order or judgment compelling compliance within 60 days of the court's judgment. The act requires that the fines be deposited into a housing trust fund and committed for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

This bill, upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with these provisions within 60 days, would instead require the court to impose fines, as described above, in every instance in which the court determines that the local agency disapproved, or conditioned approval in a manner that renders infeasible, the housing development project or emergency shelter without making the required findings or without making sufficient findings. The bill would require that the fine be in a minimum amount of $10,000 per housing unit in the housing development project on the date the application was deemed complete. In determining the amount of fine to impose, the bill would require the court to consider the local agency's progress in attaining its target allocation of the regional housing need and any prior violations of the act. The bill would authorize the local agency to instead deposit the fine into a specified state fund, and would also provide that any funds in a local housing trust fund not expended after 5 years would revert to the state and be deposited in that fund, to be used upon appropriation by the Legislature for financing newly constructed housing units affordable to extremely low, very low, or low-income households. If the local agency has acted in bad faith and failed to carry out the court's order, as described above, the bill would require the court to multiply the fine by a factor of 5.

This bill would also require that a petition to enforce the act be filed and served no later than 90 days from the later of (a) the effective date of a decision of the local agency imposing conditions on, disapproving, or taking any other final action on a housing development project or (b) the expiration of certain time periods specified in the Permit Streamlining Act.

(8) In order to obtain appellate review of a trial court's order, the act requires a party to file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow.

This bill would allow a party to instead appeal a trial court's order or judgment to the court of appeal pursuant to specified law.

(9) This bill would make various technical and conforming changes to the Housing Accountability Act.

(10) This bill would incorporate additional changes to Section 65589.5 of the Government Code proposed by AB 1515 to be operative only if this bill and AB 1515 are enacted and this bill is enacted last.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 65589.5 of the Government Code is amended to read:

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

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

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

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

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

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

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

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (h) of Section 50199.7 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval

in a manner that renders the housing development project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon a preponderance of the evidence in the record, as to one of the following:

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

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

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

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

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

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

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

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

(e) Nothing in this section shall be construed to relieve the local agency from complying with the congestion management program required by

Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act of 1976 (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

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

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

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

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

and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

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

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record. For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(j) (1) When a proposed housing development project complies with applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to impose a

condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by a preponderance of the evidence on the record that both of the following conditions exist:

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

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

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

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

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

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

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

(4) For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(k) (1) (A) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that either (i) the local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an

emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence, or (ii) the local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. For purposes of this section, "lower density" includes conditions that have the same effect or impact on the ability of the project to provide housing.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate

Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

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

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

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

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

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

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

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

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

SEC. 1.5. Section 65589.5 of the Government Code is amended to read:

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

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

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

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

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

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

(A) California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic

opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state's environmental and climate objectives.

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

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

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

(E) California's overall homeownership rate is at its lowest level since the 1940s. The state ranks 49th out of the 50 states in homeownership rates as well as in the supply of housing per capita. Only half of California's households are able to afford the cost of housing in their local regions.

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

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

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

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

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

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

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

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

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

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

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

(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low-

and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

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

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

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

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

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

the local agency's share of the regional housing need for the very low, low-, and moderate-income categories.

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

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

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

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

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the housing development project or emergency shelter.

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

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

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

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

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

(A) Residential units only.

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

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

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

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

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

(i) If any city, county, or city and county denies approval or imposes conditions, including design changes, lower density, or a reduction of the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of conditions on the development is the subject of a court action which challenges the denial or the imposition of conditions, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by a preponderance of the evidence in the record. For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

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

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

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

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

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

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

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

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

(4) For purposes of this section, "lower density" includes any conditions that have the same effect or impact on the ability of the project to provide housing.

(k) (1) (A) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that either (i) the local agency, in violation of subdivision (d), disapproved a housing development project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making findings supported by a preponderance of the evidence, or (ii) the local agency, in violation of subdivision (j), disapproved a housing development project complying with applicable, objective general plan and zoning standards and criteria, or imposed a condition that the project be developed at a lower density, without making the findings required by this section or without making findings supported by a preponderance of the evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the housing development project or emergency shelter. The court may issue an order or judgment directing the local agency to approve the housing development project or emergency shelter if the court finds that the local agency acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. For purposes of this section, "lower density" includes conditions that have the same effect or impact on the ability of the project to provide housing.

(B) (i) Upon a determination that the local agency has failed to comply with the order or judgment compelling compliance with this section within 60 days issued pursuant to subparagraph (A), the court shall impose fines on a local agency that has violated this section and require the local agency to deposit any fine levied pursuant to this subdivision into a local housing trust fund. The local agency may elect to instead deposit the fine into the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund. The fine shall be in a minimum amount of ten thousand dollars ($10,000) per housing unit in the housing development project on the date the application was deemed complete pursuant to Section 65943. In determining the amount of fine to impose, the court shall consider the local agency's progress in attaining its target allocation of the regional housing need pursuant to Section 65584 and any prior violations of this section. Fines shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the money in the local housing trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. After five years, if the funds have not been expended, the money shall revert to the state and be deposited in the Building Homes and Jobs Fund, if Senate Bill 2 of the 2017–18 Regular Session is enacted, or otherwise in the Housing Rehabilitation Loan Fund, for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households.

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

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

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to

housing for low-income households and have filed written or oral comments with the local agency prior to action on the housing development project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency. A housing organization shall be entitled to reasonable attorney's fees and costs if it is the prevailing party in an action to enforce this section.

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

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency, unless the petitioner elects to prepare the record as provided in subdivision (n) of this section. A petition to enforce the provisions of this section shall be filed and served no later than 90 days from the later of (1) the effective date of a decision of the local agency imposing conditions on, disapproving, or any other final action on a housing development project or (2) the expiration of the time periods specified in subparagraph (B) of paragraph (5) of subdivision (h). Upon entry of the trial court's order, a party may, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow, or may appeal the judgment or order of the trial court under Section 904.1 of the Code of Civil Procedure. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

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

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 65589.5 of the Government Code proposed by both this bill and Assembly Bill 1515. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 65589.5 of the Government Code, and (3) this bill is enacted after Assembly Bill 1515, in which case Section 1 of this bill shall not become operative.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

O

EXHIBIT M

Assembly Bill No. 2584

CHAPTER 420

An act to amend Section 65589.5 of the Government Code, relating to housing.

[Approved by Governor September 21, 2016. Filed with Secretary of State September 21, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2584, Daly. Land use: housing development.

The Housing Accountability Act, among other things, prohibits a local agency from disapproving a housing development project for very low, low-, or moderate-income households or an emergency shelter or conditioning approval in a manner that renders the project infeasible unless the local agency makes specified written findings. The act authorizes an applicant or person who would be eligible to apply for residency in the development or emergency shelter to bring an action to enforce the act.

This bill would, in addition, authorize a housing organization, as defined, to bring an action challenging the disapproval of a housing development pursuant to these provisions.

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

SECTION 1. Section 65589.5 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a “specific, adverse impact” means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards,

policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

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

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

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

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

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

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can

accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

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

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

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

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

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

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

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

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

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to persons and families of moderate income as defined in Section 50093 of the Health and Safety Code, or persons and families of middle income, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

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

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

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

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the

development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

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

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

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

(k) (1) The applicant, a person who would be eligible to apply for residency in the development or emergency shelter, or a housing organization may bring an action to enforce this section. If, in any action brought to enforce this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined

to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(2) For purposes of this subdivision, "housing organization" means a trade or industry group whose local members are primarily engaged in the construction or management of housing units or a nonprofit organization whose mission includes providing or advocating for increased access to housing for low-income households and have filed written or oral comments with the local agency prior to action on the project. A housing organization may only file an action pursuant to this section to challenge the disapproval of a housing development by a local agency.

(*l*) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court, in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

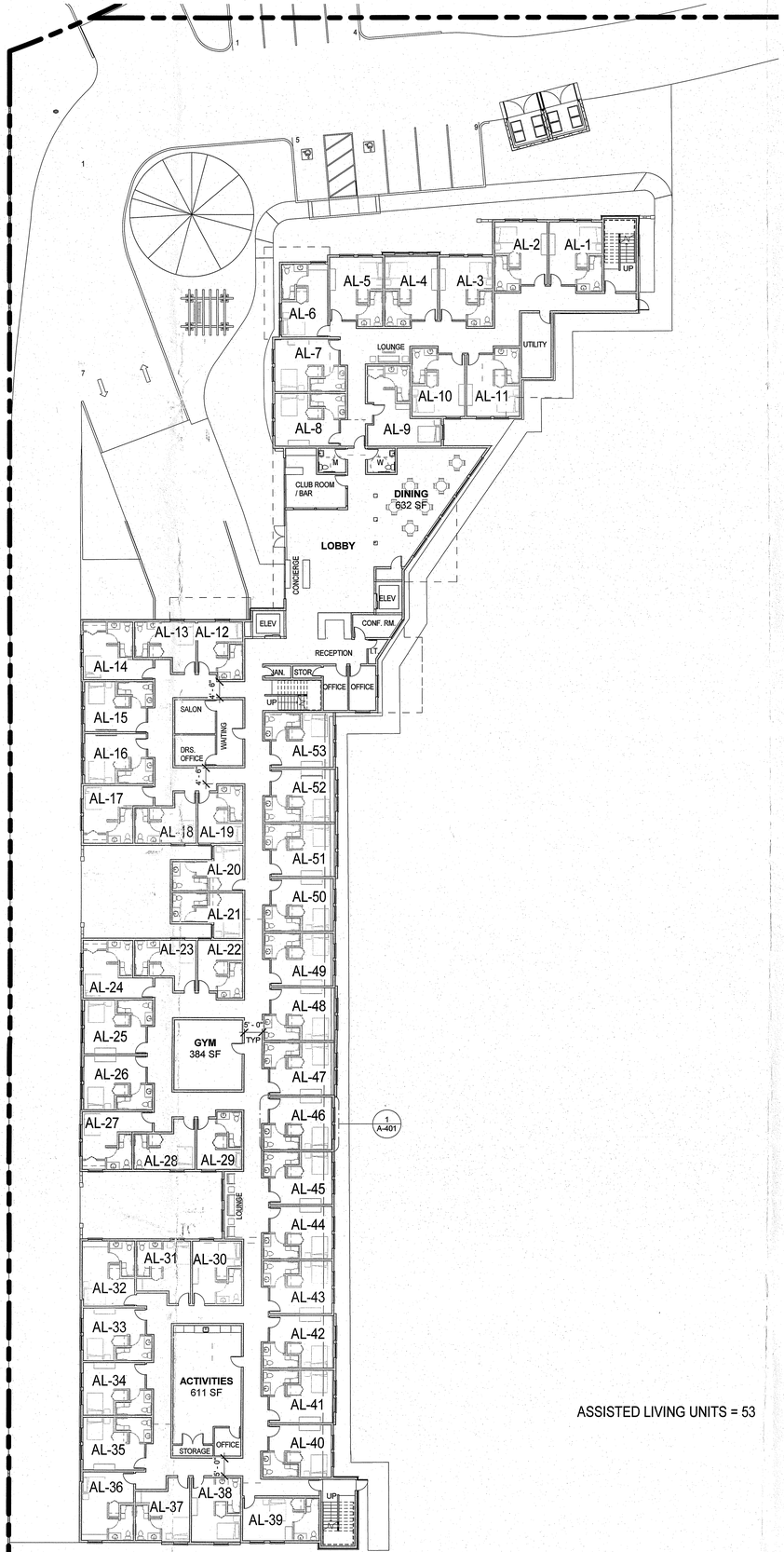
(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition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

been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

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

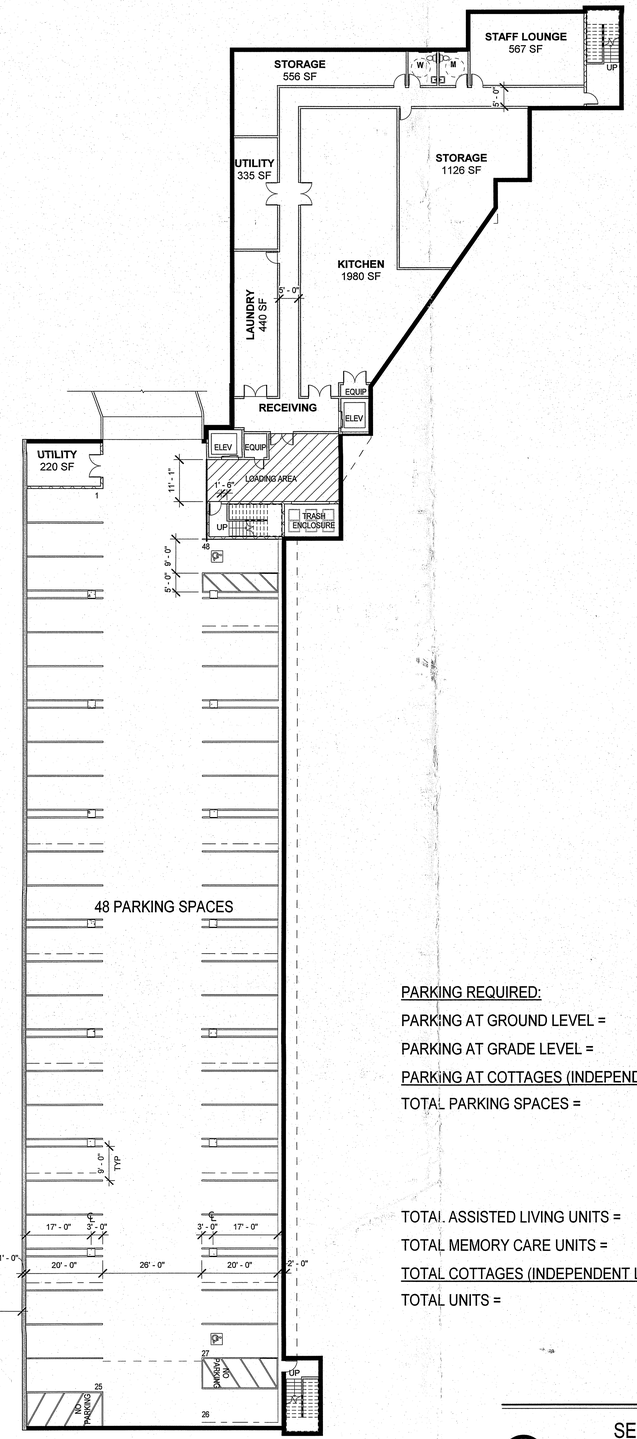
O

EXHIBIT N



ASSISTED LIVING UNITS = 53

2 FLOOR PLAN - FIRST
1/16" = 1'-0"



1 FLOOR PLAN - GROUND
1/16" = 1'-0"

PARKING REQUIRED:

PARKING AT GROUND LEVEL =	48
PARKING AT GRADE LEVEL =	9
PARKING AT COTTAGES (INDEPENDENT LIVING) =	8
TOTAL PARKING SPACES =	65

TOTAL ASSISTED LIVING UNITS =	70
TOTAL MEMORY CARE UNITS =	40
TOTAL COTTAGES (INDEPENDENT LIVING) =	20
TOTAL UNITS =	130

CONCEPT FLOOR PLANS

SENIOR LIVING & MEMORY CARE

COCHRAN ST., SIMI VALLEY, CA 93065

APN 650-0-260-030 & 650-0-260-025

PROPERTY OWNER:
JM SQUARED DEVELOPMENT, LLC

LAUTERBACH & ASSOCIATES
ARCHITECTS, INC.
David C. Kesterson, Architect • Ilona Scott, Architect • Mark S. Pettit, Architect
330 MONTGOMERY AVENUE, COAMO, CALIFORNIA 93065 | 805-584-3412 | FAX 805-581-4510 | www.la-arch.com

JM SQUARED DEVELOPMENT, LLC
18500 KESWICK ST., RESEDA, CA 91335

Print Date: 11/3/17 8:27:06 AM
Proj. No.: 20-170205

A-101

City of Simi Valley
Environmental Services Department
November 3, 2017
Case No. PR-712
Exhibit Floor-1

LAUTERBACH & ASSOCIATES
ARCHITECTS • PLANNING
David C. Lauterbach, Architect • Ilona Sodal, Architect • Mark S. Pettit, Architect
300 MONTGOMERY AVENUE, OXNARD, CALIFORNIA 93036 | 805-988-0912 | FAX 805-981-6910 | www.la-arch.com

JM SQUARED DEVELOPMENT, LLC
18860 KESWICK ST., RESEDA, CA 91335

Print Date: 11/3/17 8:27:34 AM
Proj. No.: 20-170205

CONCEPT FLOOR & ROOF PLANS

SENIOR LIVING & MEMORY CARE

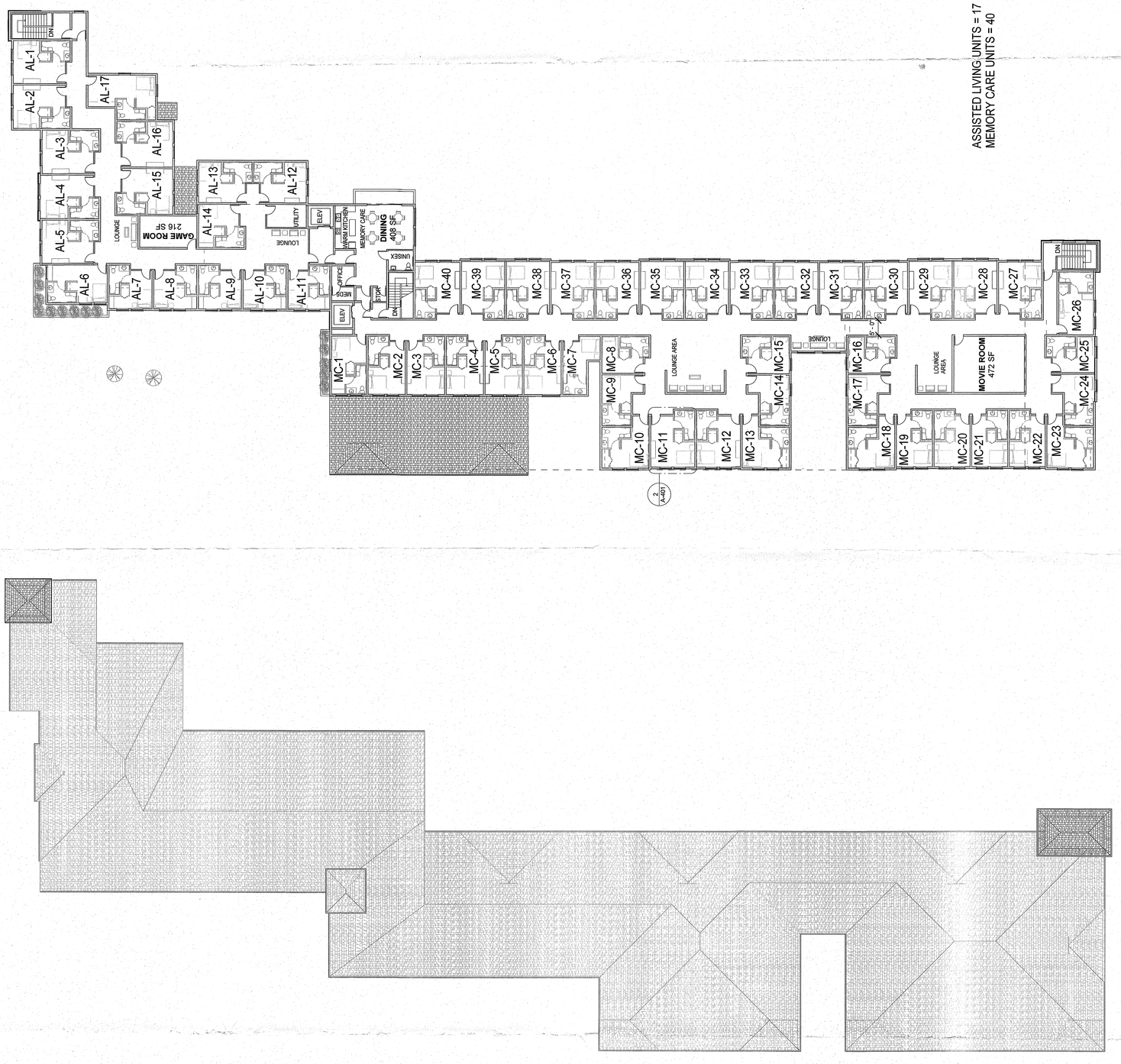
COCHRAN ST., SIMI VALLEY, CA 93065
APN 650-0-250-030 & 650-0-250-025

PROPERTY OWNER:
JM SQUARED DEVELOPMENT, LLC

A-102

City of Simi Valley
Environmental Services Department
Received: 2/2/2018
Case No: PD-212
Exhibit: Exhibit 2 Sheet 1

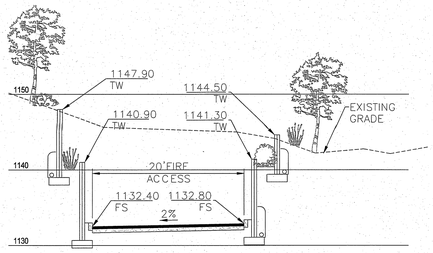
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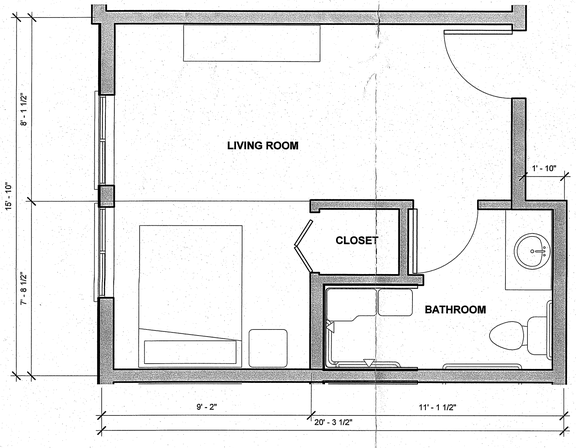
ASSISTED LIVING UNITS = 17
MEMORY CARE UNITS = 40

1 FLOOR PLAN - SECOND
1/16" = 1'-0"

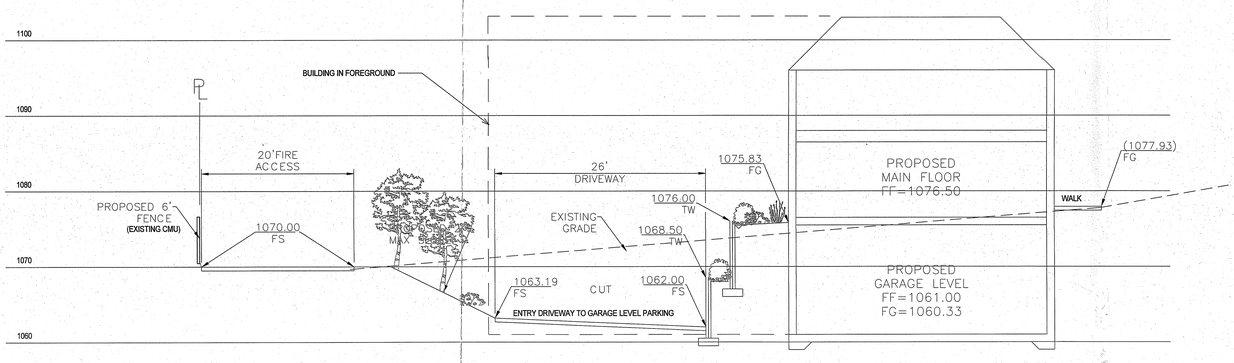
2 ROOF PLAN
1/16" = 1'-0"



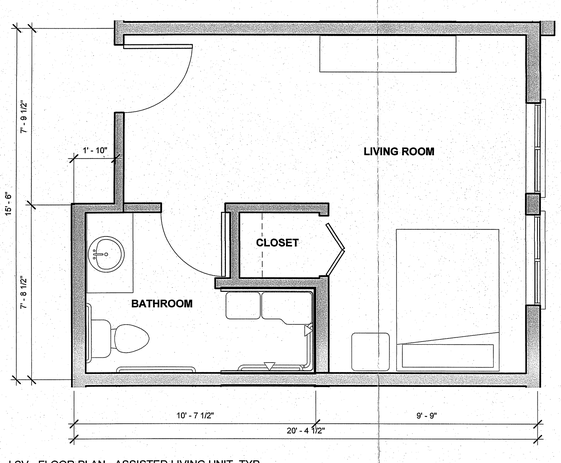
4 SECTION B
1/8" = 1'-0"



2 LSV - FLOOR PLAN -MEMORY CARE UNIT, TYP
3/8" = 1'-0"



3 SECTION A
1/8" = 1'-0"



1 LSV - FLOOR PLAN - ASSISTED LIVING UNIT, TYP
3/8" = 1'-0"

SECTIONS / LSV FLOOR PLANS - TYPICAL UNITS

SENIOR LIVING & MEMORY CARE
COCHRAN ST., SIMI VALLEY, CA 93065
APN 650-0-260-030 & 650-0-280-025

PROPERTY OWNER:
JM SQUARED DEVELOPMENT, LLC

LAUTERBACH & ASSOCIATES
ARCHITECTS, INC.
330 MONTGOMERY AVENUE, OXNARD, CALIFORNIA 93030 | Daniel C. Lauterbach, Architect • Mark S. Pehl, Architect
330 MONTGOMERY AVENUE, OXNARD, CALIFORNIA 93030 | (805) 988-2012 | FAX 805-981-4501 | www.l-a-arch.com

JM SQUARED DEVELOPMENT, LLC
18660 RESNICK ST., RESEDA, CA 91335

Print Date: 11/3/17 1:25:34 PM
Proj. No.: 20-170205

A-401

City of Simi Valley
Environmental Services Department
November 3, 2017
Case No. PR-712
Exhibit Floor-4

AR0849